

Project and concrete steps should be taken to rehabilitate the displaced persons.

[English]

SHRI SULTAN SALAHUDDIN OWAIISI (Hyderabad)

SHRI RAM NAIK (Mumbai North) : Sir, I am on a point of order. As per rules, only the approved statement will go on record. But the hon. Member is saying something more than what is included in the text. So, those things should not be allowed to go on record.

MR. CHAIRMAN : Shri Owaisi, you have given a written statement. You have to read only that text.

Only the approved text will go on record.

(v) Need to grant adequate funds for the welfare of minorities

SHRI SULTAN SALAHUDDIN OWAIISI (Hyderabad) : Sir, the former Prime Minister declared on 15th August, 1995 that a Rs. 500 crore fund will be established for the welfare of minorities. It is only on paper and has not been so far operative. It is also doubted whether any amount has so far been deposited in the fund. The present Government has not mentioned anything about this fund and its operation. I would urge the Government to ensure that the fund is made operative and put in use for the benefit of minorities.

(vi) Need to look into the menace of leopard at (Machhalisahar, U.P.)

[Translation]

DR. RAMVILAS VEDANTI (Machhalisahar) : Mr. Chairman, Sir, I would like to raise following matter under Rule 377.

Terror of leopard is prevailing my Parliamentary Constituency, Machhalisahar. It has killed about 26 children so far since April 1996. Due to terror of leopard, residents of Jaunpur-Pratapgarh region do not come out of their homes. They do not come outside after 7 o'clock in the evening due to its terror. The residents of the village guard the village at night. Even if any unknown person or a relative of any of the villagers comes to that village, he is considered a terrorist and harassed. Facts cannot be ascertained unless C.B.I. conducts an inquiry into the matter with the consent of the people. Government Officer kills a jackal but he claims before the public that he has killed a wolf, that is why, people do not have belief in the Administration. People of the village say that they are terrorists.

Therefore, I would like to request the Central Government that keeping in view the gravity of the matter, a C.B.I. inquiry should be ordered.

16.20 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF THE SUPREME COURT AND HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT THIRD ORDINANCE, 1996 AND SUPREME COURT AND HIGH COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT BILL.

[English]

MR. CHAIRMAN : Now the House shall take up items Nos. 8 and 9 together. Shri G.L. Bhargava may continue his speech now.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Hon'ble Chairman, Sir, I would like to start my point where I left it yesterday. I had submitted yesterday that God is not present here but at present Judges are doing justice on the earth. God can be kind enough to us but the justice will be done by a judge only.

I feel very sad today seeing that a great resentment has been expressed here by some Members against judges but today, a sense of fear has been created in the minds of the politicians which is a welcome trend, in democracy. It has been said here that the judges interfere in the day to day functioning-viz roads should be cleaned and widened etc. but it does not mean that today, justice is being done on roads. When people observe any drawback in the system and they feel anything wrong then they knock at the door of the court and judges give their judgement in those cases. Therefore, justice is not being done on roads but when people do not like any system, then only they go to the court.

My friend, Guman Mal Lodhaji is sitting here about whom perhaps a few people know that when he was a judge, he gave his judgement on the basis of a post card. When he was in Assam High Court, an incident of rape with some women by Police personnel had taken place in a circuit house. The news was published in the newspapers. Then hon'ble Lodhaji delivered his judgement on the basis of a cutting of a newspaper only. Therefore, judges are like a watchdog for us. He considers it his duty to do justice on the basis of a post card or the news published in the newspapers.

I would like to submit that All India Judiciary Services has been constituted in our country and there are two main points in the present Bill which has been brought before this House. First point is that the Conveyance Allowance of the judges may be increased and the second point is that their Sumptuary Allowance may also be increased. It is also correct, as I had said yesterday, that they should be provided with the facilities of good accommodation, transport and library. Dr. Ram

Manohar Lohiya had said, "Executive, Legislative, Judiciary and the Press are four pillars of our democracy." If all the pillars function smoothly, democracy will run well in our country but in case one of them becomes weak, the remaining three pillars will also not do their work properly. Press is also our guard. The judiciary is also doing its job properly. Mere judges are held responsible for the delay in disposing of the cases. It is also said that if a case has been filed by a grandfather it cannot be disposed of even till his great grandson's birth but we do not see another aspect of it. There is a big shortage of judges in the country. Vacant posts of judges should be filled up by making recruitment, they should be paid handsome salaries and provided better facilities. Through you, I would like to demand from the Government that vacant posts of judges in the country should be filled up immediately. I have a detailed list of vacant posts. Here, I would like to give a suggestion that if a computer is installed in the room of each judge, they can see for how long a case is pending with court and it should be disposed of early. What happens today, that the Readers of the court give long dates in some cases as a result of which the case remains pending for a long time. Therefore, where the facility of a library is necessary in the room of the judges, if a computer is also arranged for them, then they will keep in mind since when the case is pending and give their judgements soon.

As you know, some election petitions are filed after elections. Some election petitions are filed even against some of the hon'ble Members who have been elected to the Lok Sabha. My suggestion is that the judgement should be given within a period of six months in all election petitions. If judgement is not given even in five years' period then there is no justification of filing petitions. Therefore, judgement should be delivered on election petitions within six months. Now a days, petitions are filed before the courts which have a large number of cases pending with them. If once, the case is not heard on due date and some Advocate asks for another date the case is not disposed of in months together. Therefore, my submission is that computer facility should be provided to the judges and their vacant posts be filled up. At the same time, a separate body may be constituted under the Chairmanship of a judge of the Supreme Court for recruitment of the judges of High Courts and there should be a uniform procedure for their recruitment. Consequently, fair selection of a judge may be ensured without any political prejudice. Then Judiciary can function independently. Transfers of judges are also necessary, otherwise being in the same station with their families people may loose faith in the Judiciary. Therefore, transfers are necessary but they should be transferred after a long period and while transferring them their language should also be kept in mind.

With the initiative being taken by the Judiciary today, change will certainly take place in the politics of the country. Politics is a medium for serving the nation.

Please forgive me, today people are very irritated with the word "Neta" Today, the meaning of the word "Neta" has become like an abuse. Earlier people used to say with regard that Netaji was coming. It means that a person was coming who gave right direction to the people. But if anyone calls me Netaji, I will feel that he is abusing me or I have not done his work. Today, the meaning of the work "Neta" has been downgraded and people feel it bad if anyone calls them "Neta". Therefore, my submission is that the definition of the word "Neta" should be proper. The debate going on in the Judiciary today, will definitely bring a change in the politics of the country. Judges are good Advocates are good and the Journalism of India is also playing an active role today. Therefore, if Executive, Judiciary, Legislative and the Press cooperate with each other, honesty can be definitely established in the country.

Perhaps some of my friends may feel it bad that I am supporting this Bill. Judiciary is playing a vital role in our public life and it is protecting the rights and liberty of the people.

It is an institution which maintains the old traditions of jurisprudence. In old days, kings used to deliver justice and now Judiciary does this job. Earlier people used to assemble before the kings and beg for justice. Similarly, today the same thing is done before the Judiciary. Had there been no Judiciary, the verdict of Shrimati Indira Gandhi could not have been delivered. As a result of it Shrimati Gandhi who used to be our leader and sat in the House, had to leave the office. Emergency was imposed during the Congress party's regime. It is clear by the verdict of the Court whether it was for good or for bad. The Congress party imposed ban on the nationalist institution like RSS. Had there been no Judiciary, it could not be proved that imposing ban on RSS was improper. It was the Court which sifted just from unjust. Like wise, it was the Judiciary which lifted the ban imposed on Vishwa Hindu Parishad and Bajranj Dal. Even the term 'Hindutwa' has been defined by the Court itself.

The inclusion of the hon. Prime Minister in the jurisdiction of Lokpal Bill, which is today's subject of discussion, has been made possible by the Court. Today, Shri Nara Simha Rao and Chandraswami are being discussed every where. Had there been no Couft, the Hawala Scandal could not have surfaced. Therefore, the Courts are functioning properly to purify the politics of the country. Hence we should consider and discuss the matter relating to increase the amount of hospitality allowance and also in respect of the facilities like accommodation, library, computer and vehicle to the judges.

In the end, I would like to say that the intention of the Bill should be in the direction that the politicians should take lesson from the Court instead of expressing anger on the judges. If the Parliament and the Legislatures of the states function properly, people need

not resort to Courts. But, today the definition of 'Leader' has lost its meaning. I mean to say that when the courts are functioning properly, the judges should get all the facilities. Thank you for providing me an opportunity to speak.

[English]

SHRI P. KODANDA RAMAIAH : Mr. Chairman, Sir, I support the proposals to hike the remunerations to be given to the officials of the judiciary.

In the discussion, we have been witnessing in the last two days, one feature which impresses me, is the abundant faith of the BJP in the judiciary. I remember to have read some statements, attributed to BJP, in the Press that Ayodhya issue is not a justiciable matters and that judiciary cannot sit in judgement in matter which are purely spiritual. When the entire nation as well as the Government were interested, we can see from the Minimum Common Programme of the UDF Government - we wish to refer the matter to the Supreme Court - there was some dissenting voice on the other side and they had been consistently maintaining that in spiritual matters the judiciary cannot sit in judgement. From whatever I saw from yesterday and today, I am slated to find that BJP too has confidence in the judiciary. I hope they will maintain that and not come in the way of the Supreme Court deciding the matter relating to Ayodhya.

There were instances in history when the Executive and also the legislature had to interfere in matters which are purely judicial in nature. If we go back to the post-Second World War situation, there was a time when the judiciary was coming in the way of reforms and welfare measures in America. It was President Roosevelt who thought that judiciary was coming in the way of welfare measures and that he wanted to get over the situation. What did he do? He dumped the judges or the Members who were favourably disposed towards the welfare measures and thereby got over the obstacles put to the administration in the matter of implementing welfare measures for the people. Similarly, even during President Kennedy's time, Kennedy had chosen a Chief Justice by the name Warren because he found that he was favourably inclined to implement the welfare measures by the Government. So, we cannot say that judiciary is always on the right side or that the legislature is always on the wrong or the Executive always executes its authority. As a matter of fact, we have been finding in our country that the judiciary has been in the name of judicial activism, encroaching on the jurisdiction of the legislatures and the Executive. I will quote certain instances relating to that a little later.

But before they find fault with the legislature or the Executive, they must turn towards themselves and find out whether the impasse created in deciding the cases was not resulting in lawlessness in the country. For example, we have got cases, both civil and criminal,

which are pending for more than a decade in various courts in the country. Instead of blaming the legislature or the Executive for whatever is happening in the country, why not the judiciary look towards itself and find out ways and means of getting over the delays? I find a new system having been developed by the judiciary and that is called Janata Nyayalya. I personally feel that Janata Nyayalya is a way out for the delays and inefficiency of the judiciary in disposing of cases.

Because the cases have been pending for over five years and because the Judiciary has not been able to dispose of these cases, it has invented this mechanism called *Nyaya Panchayat* or *Janata Nyayalaya*. It is an indirect admission by the Judiciary that it has not been able to discharge its duties. We have been lauding it to say that something great has been done. As a matter of fact we should criticise the Judiciary for its incompetence in disposing of cases and devising ways and means of disposing of cases outside the court. There is a definite failure on the part of the Judiciary in this regard.

As far as working of the Judiciary is concerned, I find that it is a very leisurely organ of the society. The way the cases are called, the way witnesses are present in the court, and the way the cases are adjourned is legendary. I do not think in any country in the world this type of a judicial system and judicial administration exists. I know cases where witnesses come several times to the court, their attendance is not marked, their batta is not paid, and they are asked to get back. Are we not aware of all these things?

We talk of corruption in the Executive or the Legislature, as if there is no corruption in the Judiciary. I do not say the entire Judiciary is corrupt, nor can we say that the Legislature is corrupt or the Executive is corrupt. We are in a society and every wing of the Government is a reflection of what is happening in the society or what is existing in the society. There is corruption in every field of activity so much so that, I would say, there is corruption in Judiciary also. I will quote a micro example. If a person wants to get a copy of a document from a court in the country, is he able to get it without paying mamulu? What if the Judiciary says, "Yes, we can wind up the Legislature." I know for sure because I have been in service. I know where a poor farmer, a poor merchant, or a small time businessman will have to go to court to get the *Panchanama* copy and then he will have to pay money to the clerk concerned to get the *Panchanama* copy. Do you mean to say the judicial officers are not aware of what is going on right under their nose? I am sure they are aware of it. Have they been able to correct it? They have not been able to correct it.

What if the judiciary turned round as did some Metropolitan Magistrate in Delhi, to say that all politicians are corrupt? There are many decent politicians. There are many honest politicians. Similarly,

there are many honest Government servants. Similarly there are many honest Judges but in the same breadth I will say that there are equal number of bad Causes in the Judiciary, in the Legislature and in the Executive. So, I do not think it is proper for any of these three wings to make allegations against another wing. All of us are living in glashouses, let us not throw stones at one another.

Now I would touch upon a few instances of encroachment of Judiciary on the legislative powers. Sometimes we can blame ourselves for allowing the Judiciary to encroach into our field. The Judiciary in its wisdom had said that reservation in Government services should not exceed 50 percent. Who should say that? It is the Legislature which should have said that. There is a failure on the part of the Legislature in not having prescribed what should be the reservation quota. We have not been able to assert ourselves. It may be because of the social system in which we are living that we do not want to assert ourselves. We want to surrender that authority to the Judiciary and say, "What can I do, the Judiciary says it is only 50 percent." Why not the Legislature sit tight and say, "No, it cannot be 50 percent, you cannot say that, I will say how much should be the percentage."?

Take the case of Tamil Nadu. They have said that reservation should be 69 per cent and that had been approved by this House last time. It had been brought into the Ninth Schedule of the Constitution. Once the laws of such approvals are included in the Ninth Schedule, it is beyond the purview of the Judiciary, is it not? Now we have included it in the Ninth Schedule. But the Supreme Court says the reservation should not exceed 50 percent. Why so? Who are they to say that it should not exceed 50 percent. Let us in our wisdom say, "Let it be 20 per cent." What I want to say is, it is for us to say what should be the percentage and it is not for the Judiciary to say that.

Then in Karnataka we have lots of private medical colleges and engineering colleges.

There is a legislation passed by Karnataka as to how many seats should be allotted to locals or the outsiders. Once again, the Supreme Court intervenes and says at so much percentage of seats should go to the outsiders. Once again I would ask the judiciary under what right or under what provision of Constitution they say that this should be the percentage of seats that should go to the outsiders. It can only give some guidelines and it is for us to decide whether to follow those guidelines or not. Whatever may be the nature of duties of all the three wings, the only thing I can understand is that the judiciary can say only one thing and that is whether the legislation passed by us is *intra vires* or *ultra vires* of the Constitution. If it is *ultra vires* of the Constitution, you strike it down. Then what alternate legislation has to be passed is also to be decided by us. It is not for the Supreme Court. It has got

a limited role *vis-a-vis* the Legislature and we have allowed the Supreme court and the Courts to interfere intermittently in our area and we are keeping quiet over that. I am not undermining the authority of the judiciary. I would like the judiciary to be the watchdog of democracy. But then, that does not mean it can interfere into our affairs of the Executive.

About the encroachment on the Executive, I have got a few instances to give. Can the Supreme Court say or order of the CBI or any investigating agency to issue a second FIR. I for one feel that it has no power to say to issue a second FIR. It can always strike down an FIR. It can always at the time of trial or at the time the final report is filed under 173 of Cr. P.C. that a new name or a fresh name can be included. It can issue summons on its own. The investigating agencies can say that there is no case but the Court can differ. It can always issue summons to say that there is a case and issue is Processes. But it cannot say to issue a second FIR. That is a wrong thing that the Supreme Court has done in this case.

Another interesting thing has happened. Extension of service is given by the Executive and I find that Shri Vijaya Rama Rao getting the extension from the Supreme Court. A very funny thing has happened indeed. If that is the case tomorrow if I am a Government officer, I will approach the Supreme Court to get an extension of service. Is it the responsibility of the judiciary or the Supreme Court to extend the services of a civil servant? It does not lie within its jurisdiction and then we kept quiet. Why did we keep quite. The Executive or the Government or even the Legislature is guilty of keeping quiet when their jurisdiction was encroached upon by another wing of the society.

Yet another interesting thing has happened and that is in a particular case, the CBI will report to the Supreme Court directly, it will not report to the Government at all.

Another funny thing has happened in the case against Shri Narasimha Rao. Whether Shri Narasimha Rao is here or Shri Deve Gowda is there he is the part of the Executive, and is responsible to the Legislature. And again the Court has got Judicial process to intervene but it cannot resort to Executive directions to say that the CBI will report or submit the case directly to it and that it should not report to the Government. I can understand if the Supreme Court has said that it should also be kept informed. But it cannot say, "Don't report to the Government." It is not correct. Once again we kept quiet and the Press lapped it up to say that a great thing has been done. I do not say that it has not done a great thing but it has been doing it at the expense of the Legislature and the Executive.

These are the instances which I can freely quote to say that we have surrendered our authority for the reasons best known to ourselves.

In the case of reservation, we surrendered it to the Court because we do not want to say that it should be

more than 50 percent. Some sections of the House and some sections of the society would not like to see that it should be more than 50 percent. It suited other sections of the society and this House to let it be only 50 percent. By a process of our own willing cooperation with the judiciary, we have surrendered our authority to it and we have to feel guilty of our own inaction. While I do not mind judges getting higher salaries and emoluments - after all they are also human beings - but they cannot interfere in the working of the Legislature or of the Executive.

I thank you for giving me this opportunity.

SHRI AJAY CHAKRABORTY (Basirhat) : Mr. Chairman, Sir, considering the price rise and the price rise of petroleum products from time to time and for the purpose of increasing sumptuary allowance and conveyance facilities, an amendment has been introduced to the Bill. I support this Bill because the Supreme Court and High Court Judges have made a demand of their own. Considering all these aspects, the Bill which is introduced is correct and proper.

Sir, yesterday, my learned friend, Shri Rai had raised so many important points and therefore I need not repeat them and waste the valuable time of the House. I want to raise one important problem of the litigant public before the House. The litigant public comes from remote corners of the country and rush to the hon. High Courts in order to file writ petitions and other petitions to get relief or to establish their legal rights. During the long pendency of those petitions, the writ petitioner may pass away from this world. This is the reality in different High Courts as well as in the Supreme Court. So, as a law-maker, we should find our a way to get relief for those writ petitioners.

The judiciary functions as per the law made by us. On the last occasion, that is yesterday my learned Counsel, Shri Lodha had also pointed this out some points I agree with him. The conditions of Judges, Magistrates and Munisifs of our lower courts are pathetic. So, we should consider this matter very seriously. They are adjudicating very serious nature of cases. They are conducting trials of murder, rape cases and so many other criminal cases which are not less important than any writ petition. The Additional District Judges who are conducting trials of murder or rape cases who also travel by the same buses in which the criminals are travelling. The judges of the lower courts have no proper accommodation. They do not have separate vehicles. They do not have proper facility to discharge their judicial functions smoothly. You see the conditions of the rooms from where the Munisifs, and the Magistrates function. They are below the standard of a cowshed. It is very difficult for them to adjudicate cases sitting in those sub-standard rooms. At the time of load-shedding also, it is not feasible for them to conduct trials and all that. So, as a law-maker, we should look into this matter and give relief to those ADJs, Munisifs, Magistrates, etc.

My learned friend raised another point regarding second FIR. As per the Criminal Procedure Code, there is no scope of lodging second FIR. FIR means First Information Report. So there is no scope of filing it for the second time. After lodging the FIR, during the investigation, the investigating agency files the report in a final form under Section 173 of the Cr. P.C. They can incorporate the name in the chargesheet if the name is not incorporated in the FIR. But at the time of filing chargesheet, the name may be incorporated even if it is the subject matter of the trial.

I say that the hon. judges of Supreme Court and High Courts may act outside the periphery of Cr. P.C., but the lower Court judges should act within the periphery of Cr. P.C. The hon. judges of Supreme Court and High Courts may not act within the periphery of the Cr. P.C. but they can make and unmake the laws. So this facility is given to them.

There are so many points. The litigants, public, poor villagers, agricultural labourers and other working classes, who rush before the hon. courts for obtaining legal assistance find it too much difficult to obtain it because it is very costly in our country. It is too much difficult on their part to engage an eminent or a senior lawyer because his fees are very high. It is not possible for the weaker sections of the society to obtain legal facilities properly from any eminent lawyer.

There are so many problems in the courts. That matter has already been raised by my colleagues. If you file a petition, to obtain the certified copy or any copy from the court, you have to pay something. Without paying something you cannot get any copy from the court. There are so many difficulties. This is the position of our country. This is the habit of the people of our country. Everybody is suffering because of this. So I humbly urge upon the Government of India and all the law makers, i.e., the Members of Parliament, through you, to find a way out to solve this problem.

I support this Amendment Bill.

SHRI BIJU PATNAIK (Aska) : Mr. Chairman, Sir, I will not take much of your time. I only want to discuss policy matter on this Bill that has come before the House. No doubt, everybody supports it as different sections of the House support it, the thing is, 'is it enough what we propose here in this Bill?'

I would submit to you and to the House that judges at all levels must be kept beyond deputation. If a judiciary runs amuck and gives adverse judgements and harasses people, then the ordinary people and everybody is undone. Then the Parliament should apply its mind not merely for this petty Bill of giving some extra allowances because the petrol cost has gone up and so on and so forth but to the totality of the picture.

Take our Executive in the States and at the Centre. It is becoming more and more expensive everyday. Thousands of crores of rupees are spent, literally

thousands of crores of rupees are spent, in paying the wages and salaries and other perks to our employees.

Every time there is a Pay Commission, the prices go up because of additional expenditure of Rs. 2,000 crore or Rs. 3,000 crore or Rs. 5,000 crore. But, what about the judiciary? Sir, if you recollect, in 1961 when I was the Chief Minister of my State, the matter, whether the judiciary should be separated from the executive or not, came up before the N.D.C. Panditji was all in favour of separation of the judiciary from the executive and equally a powerful man like Dr. Vedante was equally against it. He kept on saying — it was his fear — that if you separate the judiciary, then the judiciary will ultimately land up into an arena of determining who is going to be the Chief Minister. He tried to point out the extreme case. But, ultimately we won and the judiciary was separated. From that time to till now, it is amusing to note that the judiciary is slowly encroaching upon the authority of the executive, which means, the authority of Parliament. It is interesting. It is an interesting exercise: for example the matter, that is, the advent of the judiciary on the CBI, which was pointed out by my colleague from the DMK. Why was it so? There was a suspicion, right or wrong, that the CBI's opinion is being laundered by the top executive. If that suspicion was in the mind of the judiciary, I would say, in that case, the apex judiciary in our country had a right to interfere. It did not intervene like this. It intervened and said in its judgment: 'Have another look. Go into more details and come back to us.' It is not that they directly administered some judgment against the executive but it said: 'Bring it back to us. Have another look at it. Review the situation and come back to us.'

Here, I would agree with my hon. colleague from the DMK that perhaps the judiciary need not have asked the executive Department of the country to report to them directly. They could have admonished the Government and got the report through the Government again and they could have admonished it again if they were not satisfied. But, directly asking the Department of the Government to report to them, perhaps, is a matter, which the apex court need to review itself.

Sir, we have an apex court. In England, there is a little higher body than the apex court, which is called the Privy Council. We do not have the Privy Council. In our country, the apex court is the top. That is the end of the matter. All the judicial pronouncements of the apex court are final. Therefore, have we separated the judiciary from the executive and Parliament to make it more powerful than one or the other? This is a matter on which, I think, Parliament should form a body and both the body constituted by Parliament and the judiciary body should sit together and find a way, whereby nobody impinges on the other. There are three wings of the nation's administration - Parliament, the executive and the judiciary.

17.00 hrs.

All must function independently. When somebody wants to impinge on other's authority, the trouble begins. In this case, I think, since that was a question of personal involvement of that gentleman who happened to be the Prime Minister then, simultaneously I had asked Shri Narasimha Rao, 'why are you shying away from this. You are the Prime Minister. A Department is asked to report to another body directly. It may be the Judiciary. Why are you keeping quiet?' His problem is, if I may say so - unfortunately he is not here - that he always takes a long time to take a decision. It is not today that this habit is with him. That has been his habit for the last 40 years as long as I know. Anyhow I would have said it separately that I would have a talk with the Chief Justice that this was not the right way. I would say that if he wants to admonish the CBI, he should go through me, the Executive. I will do whatever he suggests to me but he should go through the right channel. Whatever it is, that is a different matter.

But that is not the only case. Somehow, we the politicians here inside the House and outside the House have been dubbed collectively by the people as a dishonest lot. Let us be clear about ourselves. We may wax eloquent, whatever we may say, but for the average man, we are a dishonest lot.

Sir, when we fought for the nation's freedom, I remember, in 1940-42, we were young people, aged 22, 23 or 25 years. A lot of people were shot dead. My own brother was shot dead. We have gone through all that. But at that time, when we came out of the British prison after three years, people looked at us with respect. If I walk down the street in my town, the people just walk aside with respect and bow to me. Today it is different.

That is the end of the story. How do you live in this atmosphere? We are responsible for anything that happens because we, the politicians, are decrying each other. We are trying to pull down each other. We are decrying each other whether it is Shri Kamal Nath or Shri Narasimha Rao, whether it is this or that. In fact, I will not be talking out of turn. But I asked Shri Narasimha Rao on the other day.

I said, 'How come that you open the Pandora's Box now, that is, the *havala* business?' You had knowledge of this five years back. Why do you have to open it now? It is to decry your opponents - whether it is Shri Lal K. Advani or it is this or that or all of them put together. What for?

I tell you if you use a wrong instrument wrong tool, the tool will hit you back and that is what is happening. He himself has to be blamed and not anybody else. But these things can happen. People lose sight of the right things. People use wrong tools and get into troubles for themselves.

But in this process, whether it is the former Japanese Prime Minister who had landed himself in prison for five years for misdeeds or whether the former Korean President who landed himself in prison for seven years for misdeeds, impeached by the Supreme Court, all went to prison because of the Supreme Court. It happened in both the countries. In Bangladesh also, General Ershad, the dictator had landed himself in prison again because of the Supreme Court. The question is: Does it add to the stability or the honour or the dignity of the politician? How will we recover that dignity is a matter which we should discuss amongst ourselves quietly without making undue noises. We should also discuss amongst ourselves about the dignity of the Supreme Court and other courts. How to make them free from any form of temptation should be the duty of this Parliament. Whatever it may cost to the nation, right from the *munsif* level to all levels, all should be free from any temptation. A way has to be found and this issue has to be determined.

This Parliament, right from top to bottom, should ensure and not that the court should ensure. The Supreme Court and the High Courts have said that they must give houses to all the people, right from *munsif* to everybody. However, it is not possible. It can be made possible if Parliament so determines.

Therefore, what we are trying to give in this Bill is a pittance. I say that this is not enough. But we should think about it carefully. As my hon. friend has said, right from *munsif* to everybody, adequate compensation, adequate wages and perks should be given to them, which will keep them above temptation. That is all, I have to say.

[Translation]

SHRI BASANT SINGH KHALSA (Ropar) Mr. Chairman, Sir, I am grateful to you for providing me an Opportunity to speak. I rise to support the salaries and allowances of Judges (Amendment) Bill and want to express my views on one or two points.

17.07 hrs.

(Mr. Deputy Speaker in the Chair)

I am very glad that the House had decided to consider the salaries and allowances of the judges who execute a splendid job. It is essential too. The main reason for this is that there is a shortage of judges. Today, the senior advocates are not ready to accept the post of judge because the salaries and allowances of the judges are not attractive and the facilities provided to them are not adequate. These things have never been taken into account as a result of which they hesitate to accept the post of the judge. Therefore, I would like to say that their salaries should be attractive and there should be a proper transfer policy. For this purpose, it is necessary that transfers of judges from one State to

other should not exceed 30 percent and even if it is done, they should be transferred to the nearby States.

Mr. Deputy Speaker, Sir, many hon. Members have raised the issue of language problem. The function of High Courts should be done in regional languages because the poor farmers and other people know only regional languages and they do not know English. They come from far off villages. It would be better if the entire case is prepared in their own language, presented in their own language and the verdict is also given in their own language.

Thirdly, keeping in view the condition of the SC/ST, they were provided the reservation facility when we got independence but I am sorry to say that no SC/ST judge has been appointed in either Punjab or Haryana High Court as on date. It is an important part of our country.

It was stated here that qualified people were not available in the country. It is a matter of great sorrow. If a good and qualified person like Dr. Ambedkar, who can frame the constitution, was available and illustrious persons like Babu Jagjivan Ram can occupy the place in this House, then I think that there should be no shortage of such qualified people in the country. We all come from the same strata of the society. Shri Ajayab Singh Sandhu, a senior advocate with 30 years of service, was in our State. People of Punjab were expecting that he would be appointed as a judge but due to some compulsion, best known to the then Government, his name was not recommended and he could not be appointed as a judge.

Mr. Deputy Speaker, Sir, the Judiciary of our country is great. It has delivered many important verdicts. I would like to mention the name of one hon. judge, Shri Anil Deo Singh although he is not one of these. Bhajan Kaur a victim of 1984 massacre had filed a suit in the court and it took 8-9 years in delivering the judgment. It was a silver lining for the people of the country. Keep aside as to what happened and what not but it was stated in the verdict that her husband was killed in the riot, injustice had been done to her. She is helpless, in this condition how will she bring up her children. Therefore, she was provided Rs. 3.5 lakh as compensation. I talk about my area. Mohali is an important city in my Ropar Parliamentary Constituency. The victims of Delhi and Kanpur were rehabilitated there by Punjab Government by providing housing and other facilities. But last time when I went there in connection with Dhanbad, I noticed that many women had become aware of the verdict providing compensation to Bhajan Kaur and therefore they were also demanding the same. I want that a decision should be taken in this august House in this regard so that they may not resort to the courts and wait for 8-9 years. They should also be provided compensation of Rs. 3.5 lakh. The Constitution has provided reservation facility for SCs/STs people

and in return, we participate in every movement, every development. A decision was taken few days ago that the reservation norms will be followed in recruitment only and not in promotion. This verdict cannot be given by the Court. It can be done by the House only. When a decision to provide them reservation was taken by the House and the great leaders of the country like Ambedkar, they should get reservation in promotion also. I would like the House to take decision to provide them reservation in promotion and bring a resolution to this effect. For this, people demand the judges of High Court and Supreme Court to deliver justice. The Government sets up enquiry Commissions but there are several examples that the Government does not accept the findings thereof. I have been reading such things in newspapers for a long time that if bail is not granted to other community, a culprit howsoever powerful he may be, it will be injustice. Why these judges are condemned while they give verdict as per the law. We all have praised judges that they have done well. Had it not been so, then the judges may have been abused. In the end I would like to say that we have held this discussion for the facility of the judges of Supreme Court and High Courts and made Amendment. But there are other employees and Casual Labourers in these Courts. The price hike or inflation is for all. We provide increment and advance increment to big bosses only. But these low paid employees should also get these facilities. In the end I am very grateful to you as well as the House for providing me Opportunity to make my maiden speech and I associate myself with other Members in praising judges and services rendered by them. So I support this Bill and want that the Bill be passed.

PROF. RASA SINGH RAWAT (Ajmer) : Mr. Deputy Speaker, Sir, I welcome the Supreme Court and High Court Judges (Conditions of Services) Amendment Bill 1996. This is not a very Comprehensive Bill. The provision made in this bill pertain to amendment of Section 23(D) in respect of Supreme Court. Besides under the section 23(B) of the Supreme Court Judges Act, the figures of 1250 and 750 are to be replaced by Rs. 4000 and 3000 respectively. Similarly Section 22(B) in respect of High Court is to be amended. However, in view of the feelings expressed by Hon'ble Members in this House, I would like to submit, through you, that several illustrious persons have expressed views about Hon'ble Judges from their own point of view. It is true that "Munde Munde Matribhinna, Tunde Tunde Saraswati." Each person has his own point of view. The historic work done by the Judiciary of the country during the last two-three years would go down in the history of India in golden letters. It is easy to criticise but the judiciary is very active and it is termed as judicial activism. Who is responsible for it.

There are three pillars of democracy-the Judiciary, the Executive, the Legislature. If the Legislature and more importantly the Executive had not failed in its duty, there would have been no reason for the Judiciary to

cross its limits. But the conduct of the Executive compelled the Judiciary to cross its limits. Those who were in charge of affairs in the Executive and whom the former Prime Minister Shri Chandra Shekhar used to refer as 'Mauni Baba' i.e. the silent sage, always kept quiet. No decisions were taken about any controversial matter which should have been decided by the Executive or the Legislature. Hence people were constrained to go to the Judiciary and they got justice there. Gradually this because the usual modus operandi that we are unable to solve any problem. So all these issues should be left to them... (Interruptions) I am putting forth my own views.

Sir, Bhartrihari, the great author of the ancient times has made a very beautiful remark about justice in his 'Neetishatak'

Nindantu Neetinipuna, yadivaastuvantu.
Lakshmi Samavishtu Gachchtu Vayayeshtam,
Adhyaivamaranamastu, Yugantare' va
Nyayatpatha Pravichalenti Padam na dheera

That means the Judges or those delivering justice may be praised or condemned by the politic, they may gain or loss wealth, they may have to lay down their lives that very day while performing their duties or ages after. But those who are patient are never deflected from the path of justice. Similarly our hon'ble Judges moved by the sufferings of the people of the country lend a patient ear to their problems and well-aware of their tribulation, they deliver judgement in the cases that are put before them. This has been happening earlier also.

Sir, when issue of reservation had created tension in the social fabric of the country and the Government was unable to take any decision and a situation of caste-struggle had arisen, at such a time the Supreme Court was approached and they fixed a limit and gave the judgement that reservation cannot exceed the given limit. Similarly when the anti-defection law was discussed in the House, I don't want to reiterate the cases of coorruption or Hawala, but in all such cases, if the Supreme Court had not been approached, the hopes and expectations that people of this country now have from Judiciary, would not have been there. So, I thank the judiciary for having done a splendid job. People still have faith and respect for this pillar of democracy.

Sir, as it has been aptly remarked-

[English]

Justice delayed is justice denied-

[Translation]

If the deliverance of justice is delayed it means that justice is being denied but on the other hand this is also said-

[English]

Justice hurried is justice buried-

[Translation]

Which means that if the process of deliverance of justice is hurried through, it means that justice is being harmed. So the procedure determined with regard to the hearing of the cases should be followed and justice should be done in accordance with that procedure.

Through you, I would also like to state that talented people should enter the judicial services. Just like I.A.S., I.P.S., I.F.S. or just as the Management degree holders are easily available for the post of Managers in the companies because of the generous pay scales. Similarly in order to attract more and more brilliant people to the judiciary, it is essential to pay attention to the pay-scales and other facilities being offered to them. If we expect the judiciary to remain free from corruption and to maintain its authenticity and credibility it becomes our duty to make available all such facilities to the presiding officers of the Judiciary which is necessary in the present age. It is essential to pay attention to this aspect.

It is seen that too many cases are pending in our Courts. As on 12.7.1996, 21,357 regular cases were pending in the Supreme Court whereas 15,811 cases are awaiting admission. I do not want to read out the statistics pertaining to the State High Courts but 32,789 cases are pending in the High Courts throughout the country.

This data reveals the need to increase the number of judges in High Courts. Several posts of Judges are lying vacant in the Supreme Court and the High Courts which need to be filled without further delay. The number of sanctioned posts for all the High Courts of the country is 545 and 82 posts out of that are lying vacant according to a survey conducted recently. Similarly, the number of sanctioned posts of judges in the Supreme Court is 26 out of which 3 posts are lying vacant. I demand that all the vacant posts of judges should be filled up immediately.

Besides paying attention to the pay scales and facilities for the judges of Supreme Court and High Court, the facilities for the judges of Subordinate Courts should also be taken into consideration. We should also keep in mind that the people get judgements in their own language and at lower costs. At present a villager walks around the Courtyard of the High Court with a paper typed in English clutched in his hand and requests people to read that paper and tell him about the judgement delivered by the Hon'ble Judge on his case. The lawyer or the Munshi informs him that he has been punished. He keeps on going around with that paper in his hand and does not have the slightest idea of how his case was fought and which arguments were put forth by his lawyer. Hence the Judiciary will have to think it over as to how they can provide justice to the people in their own language. This will result in expression of more faith in our Judiciary.

Just as has been stated earlier the regional languages should be given due recognition along with English in our High Courts. Similarly Hindi should be given its due place in Supreme Court as Hindi is the official language of the nation. We are fast approaching the celebrations of Golden Jubilee of Independence, however, if the Judgements are not made available to the people in their own language even after 50 years of independence, it is a mockery of the people of this country. Hence the Supreme Court should throw open its doors for the use of official language declared in our constitution and High Courts should allow the official language of the concerned State so as to provide judgements to the people in their own language.

With these words, I would like to congratulate the Judiciary once again as the Judiciary has reversed the wrong decisions taken by the Executive from time to time. Judiciary has guided the country along the right path and has put even VIPs in docks. So we should praise our Judiciary. If all of us who are in the Executive and the Legislature are desirous of getting more respect in the society, we will have to introspect. We should also try to establish our credibility and authenticity.

Before independence our leaders were respected and praised by the common man. Crores of people were their followers. But at present we have created such circumstances wherein our honour is on the decline. We should try to raise our honour. I would like to make a request to the new Government that you are talking about handing over the Ayodhya issue to the Supreme Court under some section. This issue is related to the sentiments of the people and such an issue should be decided on the basis of factual position. The cases which should be handed over to the Court are not being handed over by you. Who has activated the CBI? CBI was sleeping. It paid no attention and continuously delayed taking action. Existence of Hawala dairy was known in 1991 and it was presented in the Court in 1994-95. It would not have been done if a public interest petition had not been filed. Therefore, we should be thankful to the Supreme Court as it has been performing its duty since a long time. We, specially the Executive have strayed somewhat from our path. If we are unable to perform our duty then it should take action. Knowing our responsibility, we should perform our duty, by keeping the national interest uppermost in order to safeguard the values of life under the provisions of the Constitution. Only then we can perform our duty properly.

MR. DEPUTY SPEAKER: I would like to tell the hon. Members that initially one hour was allotted for discussion on this Bill. Three-and-a-half hours have passed. It is good that more and more hon. Members should participate in the debate. But there are several Members yet to speak. If each Member take four-five minutes.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA): Please call the Minister. Three-and-a-half hours have passed. Whereas B.A.C. has allotted only one hour. Please call the Minister and have the Bill passed, otherwise there are several members to speak.

SHRI NITISH KUMAR (Barh) : Three-four more Members have to speak...*(Interruptions)*

SHRI SRIKANTA JENA : You seek its clarification later on. Discussion is yet to take place. Some business is still there.

MR. DEPUTY SPEAKER : What is the opinion of the House?

(Interruptions)

SHRI NITISH KUMAR : Mr. Minister, Sir, the Chair has asked as to whether the time is to be increased by half-an-hour or one hour. Please look into this.

SHRI SRIKANTA JENA : My submission is that first let the Minister reply on it. And if anything is to be asked thereafter, it would be better if a clarification is sought on it.

MR. DEPUTY SPEAKER : Time will have to be extended to enable the Minister to reply

SHRI RAM NAIK (Mumbai North) : Mr. Deputy Speaker, Sir, it was decided yesterday in the Business Advisory Committee to complete this discussion by Six O'clock. Thereafter discussion will be taken on floods. And it seems to me that if this discussion is extended by an hour, then after Seven O'Clock, discussion on floods will not be possible, therefore, it would be better to complete whatever discussion is to be held by Six. As said by the Hon. Minister, Justice Guman Lodha will also reply to it later. In this way both the discussion would be incomplete. Hence I request that all those Members desirous of speaking on it, should do so by Six O'Clock. *(Interruptions)*

SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands) : Mr. Deputy Speaker, Sir, my name is in the list. My name has been called. Give me an opportunity to speak

MR. DEPUTY SPEAKER : I have five more names with me.

SHRI RAMASHRAYA PRASAD SINGH (Jahanabad) : Mr. Deputy Speaker, Sir, the Minister should not speak now. I have to say something very important. Therefore, I should be given an opportunity to speak. If there is paucity of time, then at least two minutes should be given to me.

SHRI NITISH KUMAR : Mr. Deputy Speaker, Sir, Shri Ramashraya babu is an old Member of this House. Please give him an opportunity to speak. *(Interruptions)*

SHRI RAM NAIK : Mr. Deputy Speaker, Sir, it is not the practice to ask questions by way of explanation, as the Minister of Parliamentary Affairs has said. You can

decide that, if the Minister so desires he can give a reply tomorrow. And allow the discussion on this till Six O'Clock today.

SHRI SRIKANTA JENA : Shri Ram Naikji, the Minister would not be able to reply tomorrow because there is a lot of business tomorrow.

SHRI MANORANJAN BHAKTA : Mr. Deputy Speaker, Sir, the Minister should speak for half the time, of the total time allotted to him. But I must be given time to speak...*(Interruptions)*

SHRI NITISH KUMAR : Mr. Minister, Please pay attention to the fact that after lunch there is no quorum in this House. But we are fully co-operating with you...*(Interruptions)*

MR. DEPUTY SPEAKER : All right, I am extending it by half-an-hour.

SHRI NITISH KUMAR : Mr. Deputy Speaker, Sir, Shri Ramashraya Prasad Singh is such a Member of this House who remains in the House throughout the sitting. Therefore, I request, that he must be given a chance to speak...*(Interruptions)*

SHRI MANORANJAN BHAKTA : Mr. Deputy Speaker, Sir...*(Interruptions)*

MR. DEPUTY SPEAKER : Please try to finish your speech in four minutes.

SHRI MANORANJAN BHAKTA : Mr. Deputy Speaker, Sir, this Bill has been brought here with a limited objective. Discussion on it should have been over in an hour. But all the Members were eager to speak on it and several opinions were expressed. Therefore, today it has become essential to discuss points on this. While deliberating his speech, Shri George Saheb exposed all the politicians as villains. During his entire discussion he condemned the politicians. But my submission is that, this does not pertain to any political party, but pertains to protect the sanctity of the Constitution. We all should think over it and take a decision on it. I would like to request you that regarding rule of the law, independent Judiciary, the Constitution makers, the politicians—all those people should adopt this procedure for the people of this country. When we talk of independent Judiciary or the rule of the law, the makers of the Constitution also has this in their minds. Therefore, it would be unjust to comment on it or to speak in this manner.

As far as judicial activism is concerned, no one would have objection against it. The people are curious to know as to whether the Judiciary is functioning within its limits or encroaching on others' powers because of the incoherent and meaningless talks held regarding the role of the judiciary. We need to think over this. At the same time I would like to submit that the laws are made by the Legislature. We too have some honour in the society. And it is right that it would not be proper to give credence to any type of charge levelled by the Judges on anyone. I cannot accept this. I think that the

Judiciary would have to introspect. The judiciary itself has to decide as to what sort of treatment should be meted out by them to the law making institutions, the legislature. It is not our duty to look into it.

SHRI SYED MASUDAL HOSSAIN (Murshidabad) : The case of impeachment against justice Ramaswami ...*(Interruptions)* Congress party did not vote that day but now they are saying...*(Interruptions)*

SHRI MANORANJAN BHAKTA : Why are you interrupting me when I do not interrupt your speech ...*(Interruptions)*. Lodhaji has made an apt speech on it that is because he had been a judge for a long time and later on he faced and won the election of Member of Parliament. He has experience of the Post of judge as well as working of this House. Therefore, it will be beneficial and informative for us as well as for the House if he makes a proper speech on it.

I would like to make a submission that today the country has an important matter to decide. We are going to make 75th Amendment in the Constitution of India. Despite it a strong need is being felt to re-draft a new Constitution for this country. As per the judgement given by the judiciary in the Golaknath case keeping in view the prevailing situation in the country, no new constitution could be drafted for this country. The people of this country are poor. You cannot make any basic changes in the functioning of the judiciary and the executive. You will have to go for a referendum if you want to do that you can re-draft a new constitution only when you go for referendum on this matter and again set up a new Constituent Assembly. It is a major issue.

Just now Shri Biju Patnaik has mentioned several good points. This matter should not be dealt politically for their convenience but it should be seen in national perspectives. Only then you can realise that they should be given facilities to perform their duties in their respective fields. It is right. I agree with you all on this subject. As far the question of providing facilities to the judiciary is concerned, there are not two opinion about it. Ever since I am here in this House I never found that any objection has been raised to any demand made in favour of the judiciary. There is no question of raising objections and today it is a common thing.

Today there is a need to constitute a judicial Commission to see as to what is required to be level. High Court level. Supreme Court level to ensure expeditious disposal of pending cases. This House would have no objection to it. Hon. Member Kalpnath Rai is sitting here. We have to take a note of as to how he has expressed his anguish before the House. Today Kalpnath Raiji faced this situation, tomorrow any other Member could be charged with some allegations. It is right, if any body commits wrongs he must be punished. In Bangladesh Shri Ershad is in jail but he has been given permission to attend the House and he attends the House. But a Member of this House was refused permission to attend the House...*(Interruptions)*

SHRI SYED MASUDAL HOSSAIN : Mr. Deputy Speaker, Sir, his case is lying pending therefore, he cannot say anything in favour or against it.

SHRI MANORANJAN BHAKTA : I have not said anything in favour or against the case. I have said that he should have been given permission to attend the House when he was in jail, as his case was under consideration and chargesheet was not served to him. I feel that an injustice was committed against the Member by refusing him permission to attend the House. He was stopped to perform his duty. I condemn this. I feel that today we all, the ruling party as well as Opposition parties have to sit together to contemplate seriously as to how the Judiciary, the Executive and the Legislature can work while defending their honour. With this I support this resolution.

[English]

SHRI PC THOMAS (Muvattupuzha) : Sir, the Bill is welcomed by all. I also welcome the Bill. One aspect on which I would like to speak specifically is regarding the quality of the judges. The system of judiciary is very laudable. It is very important. It has got a lot of concern to the people of India.

The basic factor to be taken into account is the quality of the judiciary and for that matter, the quality of the judges. If the quality of the judges is to be improved, they should not be put to hardships by way of emoluments and transfers etc. to which they are being put to now.

Regarding emoluments, all hon. Members have spoken that the judges must be paid well. In the Constitution itself, the salary of a Supreme Court Judge as well as the Judge of a High Court was stipulated. It was Rs. 3,500 - p.m. in the case of a Supreme Court Judge which was fixed at that time. A change in their emoluments through an amendment of the Constitution came only after a long time. Though the circumstances changed a lot, the change with regard to their salary and emoluments came only in 1985 after the parent Act was passed. I think then also the salary which was given was not in consonance with the changes that had occurred. The one thing that I should bring to the notice of the hon. Law Minister is that the salaries of the Judges have to be taken into account and a change has to be brought with regard to their salaries. At the time of framing the Constitution, it was fixed at Rs. 3500 - If the present hike in prices and the number of years that has gone by have to be taken into account, the proposal for giving them a salary of Rs. 35,000- is there. I think even that is not too bad.

Secondly, I come to the policy of transfer. I think this is something which is causing great difficulty amongst the people who come as Judges. Now, a Judge is appointed to a High Court. But even though he is appointed to a High Court, he is immediately transferred. I think that this policy which was framed at that time

with a very good view has now failed in the sense that the Judges who come from different States are not in a position to conduct as Judges in the best way. I think if this policy could be reviewed now, it will do a lot of good in getting good judges, good advocates and good persons to the Judiciary. I think the best amongst the advocates or the best amongst the profession should come to the Judiciary. Then only we can expect the maximum output from the Judiciary.

With regard to the other matters which were submitted here, I am not going into the details. I think the Judiciary is the Temple of justice. This has become a very great expensive thing as far as the litigants are concerned. Therefore, I think that the litigants' point of view also has to be taken into account while the Law Ministry considers the overall aspects with regard to the Judiciary as well as the legal system.

The setting up of a Bench of the Supreme Court in the South is a long-standing demand. I think the Law Minister will take into account this demand which has been pending for quite a long time. It is a very very difficult situation for a litigant to come to Delhi and to fight out the case. It is very expensive and sometimes the distance is also causing so much of difficulty. I, therefore, suggest that this may be considered and a Bench of the Supreme Court may be set up - may not be in Madras, may not be in Bangalore but may be ... (Interruptions) If there is no consensus, I will suggest Cochin. Let it be Cochin.

With regard to arbitration outside the court also, I think, the Law Ministry has taken a very serious note of it. A Bill is already coming up. I think it has already been introduced in the other House regarding arbitration and mediation. I think such a type of conciliation where the litigants can have redress even without going to a court of law is something which has to be thought of very seriously and a statutory touch or statutory effect has to be given to such type of a legal system which should also grow in this country. (Interruptions)

I will finish my speech by adding one more point. Regarding the Judicial Service, some points were made. This has been enunciated by the judgement of the Supreme Court itself. The details have already been worked out. I think this is something which has to be worked out in the Judicial Service which may go a long way in our judicial system especially in the lower judicial system. Though the question of lower judiciary is not to be taken up at this stage, though we are not concerned with it now, yet I think this is something which will be of great help as far as the judicial system is concerned.

Finally, due to paucity of time, I am not going into the other details. I thank you very much for giving me this opportunity.

DR JAYANTA RONGPI (Autonomous-District)
(Assam) : Mr Deputy-Speaker, Sir, I shall be very brief

and I will repeat those points which have already been raised by the other hon. Members.

Now, the Bill in question has got very limited purpose to amend the Conditions of Service Act of the Supreme Court judges and High Court judges. That was to increase certain amenities to the Supreme Court and High Court judges.

Taking the scope of this debate, Mr. Deputy-Speaker, Sir, I would like to know categorically from the hon. Law Minister, when he placed his statement that our Parliament and the country had decided - some decades back - to separate Judiciary from the Executive. But still there are certain areas in our country specially, the tribal areas and scheduled areas where even today the Executive is not separated from the Judiciary. Even in my constituency, the DM, in Assam he is called the Deputy Commissioner, himself is the District Session Judge. The ADM is the Additional Session Judge and so also in Nagaland and Arunachal Pradesh. And, I am told that in certain parts of the Andhra Pradesh, Himachal Pradesh and many other parts of the country, specially, the tribal areas, the DM or the DC himself is the Session Judge.

So, there are occasions when you have to challenge the order of the Executive, Magistrate or the Government or the DM. Then the DM himself will take up the case to the District Session Judge, and therefore, the very principle of the natural justice is not there. Therefore, it is high time that why the tribal and backward areas of our country are deprived of a sound judicial system.

As per the international jurisprudence, the basic principal of the Judiciary is to have independence from the Executive. But in these cases, the same person is in the Executive and the Judiciary.

Sir, I also want to draw the attention of the hon. Minister that in spite of all efforts, and while we are lowering the cost of the Judiciary and our democratic system. It is a reality that a common Indian man, the poor person is still deprived of getting good justice. It may be because of its expensiveness, it may be because of its time taking procedure. Therefore, I will request the hon. Minister to at least take a comprehensive view so that the judicial system becomes cheaper to the common man. At least, the stamp fee can be exempted. Though there is a free legal aid system, it is also not working properly as it is expected to. When we are giving subsidies to the industrialists, capitalists, the Government of India can give little subsidy to the judicial system so that a common man can lodge a complaint in the Court, the High Court or the Supreme Court without paying anything. For an unemployed youth, for a labourer, for a daily wage earner even a stamp fee of Rs. 5, Rs. 10, Rs. 15 or Rs. 20 or Rs. 100 is unbearable enough and which itself is a deterrent in giving a good justice.

MR. DEPUTY-SPEAKER : Please try to conclude.

DR. JAYANTA RONGPI : Sir, I want to conclude my speech requesting the hon. Law Minister only one aspect of the Conditions of Service Act and that is that many of the hon. Members have pointed out about the quality of the judges and also the independence of the judges. Therefore, the present system of appointment of judges should have more transparency, as this Government has been advocating transparency. I will appeal to the hon. Law Minister, so that he will come to this Parliament with a new Bill so that the present system of appointment of judges are changed and more transparency is adopted so that the people of this country or the beneficiary of the judicial system is sure of the impartiality, the independence of the judges.

With these words, I welcome this Bill.

[Translation]

SHRI NITISH KUMAR : Mr. Deputy Speaker, Sir, today we are debating the issue of Supreme Court and High Court Judges (condition of services) Amendment Bill, 1996. It has two main points. Firstly it seeks to raise the limit of petrol consumption facility provided to them from 150 liters to 200 liters and the same time substituting the work fuel for 'Petrol'. It means that it could be Petrol or diesel. Second point is regarding to increase the Sumptuary Allowance given to them. There is provision to raise the Sumptuary Allowance from Rs. 1250 to Rs. 4000 per month in respect of the Chief Justice of Supreme Court. Similarly, provision has been made to raise this allowance from Rs. 500 to 3000 for the Chief Justice of High Court and from Rs. 300 to Rs. 2000 per month for other judges of the High Court. The Bill in question has got very limited purpose but the debate is being held on the whole judicial system, conduct of judges. In this House some Members even went to the extent of indirectly reprimanding the hon'ble judges in their own style. Whereas this is not a Comprehensive Bill. We will become a laughing stock if someone listen the audio-tape of this debate.

Sir, this Bill has a limited purpose. We have to decide as to whether the Petrol allowance is to be raised from 150 liter to 200 liter or not? The Sumptuary Allowance, provided to them for snacks for attending meetings in the office etc., is Rs. 42 per day for the Chief Justice of Supreme Court, Rs. 25 for judges of Supreme Court, Rs. 17 for the Chief Justice of High Court and Rs. 10 for judges of the High Court. We are here in this House for the last seven years. I would like to know as to how many times the prices of snacks have been raised here.

What a judge will eat for just Rs. 10 in his chamber and what would be purchased for Rs. 10 if a meeting is convened. If you get Rs. 300 for a month. This Bill has been brought here to increase this allowance upto Rs. 300 per month and only for this limited purpose full debate has been held in the House. What do you mean by this? As far the judicial activism is concerned, people

say that judiciary is delivering decision on everything. Why the Executive is not taking any decision. Whether the Executive will maintain silence if it has to take any decision? When any scam is unearthed and demand is raised to conduct inquiry into it then instead of conducting inquiry, the matter is swept under the carpet but later on the matter flare up and demand for conducting CBI inquiry is raised. Therefore, Supreme Court lawyers are hired to suspend the inquiry in High Court. I do not know about their official fee but you can find out this if you go to Supreme Court. People hire big lawyers for it and inquiry into these scams is suspended on one pretext or another. The job of the executive is to identify the irregularity and to punish the guilty. The Executive is not suppose to involve with the guilty persons. But instead of apprehending the culprits and bringing them to book, if the executive start acting in collusion with them and start punishing one and protecting another for the same act, where one would go in such a situation? Then people move to Court and public interest petitions are filed. I come from Bihar where I have seen that High Court impose a fine to a person who file some unfactual petition and waste the time of the Court. It is not so that any person is allowed to waste the time of the Court with filing a wrong petition.

18.00 hrs.

In such a situation the executive keep mum instead of performing their duty on such issues. During the Tenth Lok Sabha, the executive has become so insensitive that proceedings of the House was stalled for 10 days and that is too on the demand that the Prime Minister should come to the House. But despite this the Prime Minister did not attend the House. It was the situation of the House at that time. In such a situation when the legislature becomes defunct, then any person, whether he is in politics or not, is forced to go to Court.

Court renders justice to them. We should not start attacking the judges if some problems are faced by someone due to this system. Yesterday we were listening to Shri Priyaranjan Dasmuni. Why to blame one person but several Members have made speeches on this subject. We have got some privileges here but it does not give us right to say anything about a person or system. Such a situation should not be created. Whether it is Executive, Legislature or Judiciary, all should perform their duty. Such a situation would have not arisen if all perform their duty properly. But today, this Bill has been brought for a limited objective.

Amendments given by Shri George Fernandes is for a limited objective only. Today, we have to pay more money when we go to Central Hall to have some snacks. He has given an amendment to the provision of Sumptuary Allowance provided to the judges and stated that it should be linked with some cost of living index. The present rates have been in vogue since 1986. We are not sure that how far these rates would prolong. How often we can keep bringing Bills for such petty

purposes before this House. A comprehensive debate has been conducted on this Bill with a limited objectives. If a comprehensive debate was to be held, it should have been on judicial system and judicial reforms or how to make the system cheaper for the poor. It should not be so that a Bill is used as a front to ventilate your personal views and to reprimand the judges and judiciary. Judiciary is performing its duty and we should perform our duty.

As regards to the amendment given by Shri George, I request the hon. Minister not to be in a hurry. Debate is going on. Perhaps it will not complete uptill the six O'clock which is the time fixed for it. This depends on discretion of the House and the Deputy Speaker. Who can take a decision on it. It is not necessary for us to trend on the beaten track and follow the bureaucracy. If you find it correct this amendment should be accepted it should be linked with the cost of living index and there is no need to bring it again and again in this House. One minute time of the House involved an expenditure of Rs. 50 thousand which may have become 70 thousand now as prices of every thing are going high.

MR. DEPUTY SPEAKER : Nitishji alright, please conclude now

SHRI NITISH KUMAR : In such a situation I will request you to admit this amendment and this amended. Bill should be passed here I support the limited objectives of this Bill. I thank you for allowing me to speak.

18.03 hrs.

DISCUSSION UNDER RULE 193

Flood situation and Natural Calamities in Different parts of the Country

[English]

MR. DEPUTY-SPEAKER : Now the House will take up further discussion under rule 193.

SHRI XAVIER ARAKAL (Ernakulam) : Mr. Deputy-Speaker, Sir, thank you very much for inviting me to speak a few words about floods and natural calamities.

Many Members have expressed their serious concern about floods and natural calamities. This is a subject which attracted the attention of the entire House. Therefore, the Speaker, sensing the frustration and disappointment of the Members of Parliament, allowed this discussion.

The discussion has highlighted many salient features of the lacunae in relief works at site. 'Death keeps no calendar', so goes the saying. Every year, we are visited by this disaster. May I ask you, have we planned anything substantial in the form of preventive measures?

This is one spect which was not highlighted in the discussion. Therefore, I am bringing it to the notice of the House. What are the concrete measures that have been taken by the Government of India to cope with this crisis created by the natural calamities? This is a subject within the purview of the State Governments and which comes within the jurisdiction of the State Governments. However, the Central Government has a duty when any part of the country is affected by natural calamities. Today, there is no part in the country which is not prone to the natural calamities. There were references to flood, cyclones, earthquakes, landslides etc., etc. This is an inter-Ministrial responsibility. I am sorry to say that there is no proper coordination between different Ministries in coping with this crisis. I am citing one example. You may remember the Latur earthquake. How many had died there? Who were the people who came to their rescue? Who were the people who participated in the relief work?

Sir, the *Malayala Manorama*, a leading newspaper have built an entire village there. *(Interruptions)* Voluntary agencies have come forward. Why have the State Government not come forward? Why do the State Governments and the Central Government not have a coordinated, effective, correlated relief measures? *(Interruptions)* Therefore my first submission is that there should be proper coordinated interacting agencies for (a) the relief work, and (b) for preventive work. My hon. friend is waiting to speak on preventive measures. Various seminars and discussions were held. In 1970 a meeting of the Ministerial Committee of various State was held. The meeting was held in Delhi. There, they formulated a six-point programme to cope with the relief work of the flood affected areas. Are we short of reports? Are we short of seminars? Are we short of experts in this field? No, but unfortunately no willingness is shown either by the Central Government or the State Governments to cope with this crisis.

There is another aspect which is not highlighted here. What about the flood situation in the cities in the urban areas? Have we thought about that problem? What has happened in Mumbai? What has happened in Calcutta? All major cities are flood-prone. Now, the Central Government may say that it is the responsibility of the State Governments or the local bodies. But that is not the answer.

When a calamity occurs, it does not discriminate against the locality or area. We have a human responsibility to see that the calamity is met with proper effective measures. Funds are allocated according to the recommendations of the Finance Commissions. The Ninth Finance Commission has allocated Rs. 4,020 crore. It has now been enhanced to Rs. 6,304 crore. Is that enough? The figures were given to the House. Thousands of crores of rupees worth material, cattle, fodder, property and buildings were destroyed. Do we have an insurance policy of this? Why cannot we evolve a proper effective national insurance policy? This is one submission I have to make.