

progress of the country has come to a standstill. On the one hand there is a proposal of increasing the capacity of transportation of goods in railway wagons, on the other the capacity of the trucks has been decreased. As a result, transportation is getting costlier. Heavy vehicles are being run on the roads but there is ban on the issuance of driving licences for heavy vehicles. My State Punjab is an example of this. Because of the setting up of heavy industries, big irrigation projects in the State and also transportation of foodgrains on a very large scale, there is a existing roads are not able to bear so much traffic. Therefore, I request the Central Government to take necessary amendments in Motor Vehicle Act to increase loading capacity of heavy vehicles.

(v) Need for early completion of Second Phase of Kollam bye pass in Kerala

[English]

SHRI N.K. PREMCHANDRAN (Quilon) : Kollam Bye pass in National Highway is a project included in the Eighth Five Year Plan. It has four phases. The first phase of the work from Mylakkad to Ayathil has been completed by spending more than nine crores of rupees. Unless the other phases are completed, the work is of no use.

Hence, I urge upon the Minister of Surface Transport to include the said work in the Ninth Five Year Plan and also to include the second phase of the said work in the next Annual Plan with utmost priority.

(vi) Need to Expedite Brahmaputra Valley Exploration Project in Assam

DR. ARUN KUMAR SARMA (Lakhimpur) : The North Eastern Region of India is a reservoir of natural resources like coal, limestone, oil and natural gas. Due to lack of proper initiative to explore and utilize these resources during the last 50 years of Independence, the region remained underdeveloped. The people of Assam had to agitate for establishment of the existing toy refineries. Crude oil in the country was first discovered in Assam by the British, and the first refinery was set up at Digboi, a century ago. Since then, the associated gas has been flared which is now worth more than three crores of rupees a day. It is unfortunate that not a single major industry based on natural gas was cleared by the Central Government. The Assam Gas Cracker Project and the Amguri Power Project has been delayed because of the fact that OIL and ONGC expressed inability to supply the committee quantity of gas despite the availability of a number of untrapped gas wells to explore. In addition, adequate investment was not made in Assam during the past few decades either to increase crude oil production or to preserve the flared gas and to trap the free gas. It is surprising that Petroleum Ministry is reluctant to invest in the domestic production of gas and oil in Assam at a time

when hundreds of crores of rupees are to be wasted in importing gas and oil through pipeline. The Brahmaputra Valley Exploration Project taken up during the Eighth Plan period was not implemented in its true earnest. As a consequence, there has been frequent hike in the prices of petroleum products in the country.

I, therefore, request the Central Government to expedite the Brahmaputra Valley Exploration Project and for taking urgent steps to trap free gas with adequate measures for preservation and for prevention of criminal flaring of gas in the interests of rapid industrialisation in the North Eastern India.

[Translation]

(vii) Need to Reopen closed Mills to Protect the Interests of Workers

PROF. OM PAL SINGH 'NIDAR' (Jalesar) : Mr. Speaker, Sir, today when the industries of our country are already passing through a transition period, Indian industries are badly affected due opening multinational companies in the country. Some prestigious industries, like Nepa Mills, Nepa Nagar in the field of newsprints and Hind lamps, Shikohabad in the field of lamps manufacturing are closed down. At both these places thousands of workers are on the verge of starvation. About 50 thousand families associated with these factories and industries are passing through very hard time. The future of the workers and their families associated with these industries is entirely in dark.

Therefore I would like to request the Union Government through you that in order to save the lives of these workers and their dependants, these big industries should be revived immediately.

STATEMENT BY MINISTER

Situation arising out of the Allahabad High Court Judgement Regarding Imposition of the President's Rule in Uttar Pradesh

14.26 hrs.

[English]

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA) : Mr. Speaker, Sir, I wish to make a statement on the situation arising out of the High Court judgement regarding Imposition of the President's Rule in Uttar Pradesh.

The matter of imposition of President's rule in Uttar Pradesh consequent to a situation where no single party or combination of parties was able to secure

absolute majority required to form a Government has been extensively debated in both Houses of the Parliament and the consistent stand of the Government has been that it stands for democratic tradition and democratic values. The election to the Uttar Pradesh Legislative Assembly was held only with a view to providing a representative Government in the State and it was unfortunate that no party or alliance was in a position to form the Government. As has also been mentioned earlier the decision to impose the President's rule in the State was taken after great deliberations of over a week, allowing enough time to come to some stand. It was only when the Governor felt that in view of the stance taken by different political parties, that no party or group was in a position to form a stable Government or garner support without unscrupulous means, that he took a decision to recommend imposition of President's rule.

In this context it may also be mentioned that the Legislative Assembly has been kept in a state of suspended animation in the hope that a Government with majority may emerge through understanding amongst various political parties and without recourse to undesirable means. The stand of the Government was vindicated by both Houses of the Parliament when it approved the resolution moved by the Government, seeking approval of the Proclamation issued by the President on the 17th October, 1996.

As the hon. Members are aware, various writ petitions were filed before the Lucknow bench of Allahabad High Court to challenge the Proclamation under article 356 (1) of the Constitution. The matters were first heard by a two-judge bench of the Allahabad High Court which gave conflicting judgements on 19th November, 1996. Following this judgement, the Chief Justice of Allahabad High Court appointed a full bench to hear the writ petition and the hearing commenced on 4th December, 1996.

The newly constituted bench of the Allahabad High Court has given a judgement today quashing the Proclamation issued by the President.

The Court has, however, also stated that their order would be effective only from the 26th December, 1996. But the Government has not yet received a copy of the judgement, which would need to be studied. But in this effort we require the cooperation of all the political parties to break the stalemate in the State.

[Translation]

SHRI PRAMOD MAHAJAN (Mumbai-North East) : Mr. Speaker, Sir, this statement merely contain facts and that is all about it. The Government have not given their own statement. The High Court has given its judgement in which it has been mentioned that Article 356 should

be quashed and a popular Government should be formed there within five days. Five days time has been given to form the Government. Since Morning we have been expecting that the Honble Minister of Home Affairs would make a statement but he has not mentioned anything in this regard in his statement.

SHRI RUPCHAND PAL (Hooghly) : He has said in this regard.

SHRI PRAMOD MAHAJAN : What has he said?

SHRI RUPCHAND PAL : He has said that effects are being made to form a popular Government there.

SHRI PRAMOD MAHAJAN : This is a very unsatisfactory statement and it appears that the Government is still not taking it seriously. We demand that in pursuance of the operative part of this judgement the Government should start the process by asking the BJP to form the Government instead of going into details of the judgement.

DR. MURLI MANOHAR JOSHI (Allahabad) : Mr. Speaker, Sir, the High Court has given its unanimous judgement to quash the Presidential proclamation. The Presidential proclamation was imposed on the recommendation of the Government. This means that the High Court has not accepted the arguments and facts given by the Governor. This throws light on two things. First, which is the Government in U.P. at present because the proclamation issued by President has been withdrawn this mean that the Governor has no powers... (Interruptions) He has constitutional powers. The Governor had the powers which were delegated by the President to him through Presidential proclamation to govern U.P. but when the proclamation has been quashed then the Governor has no power to rule... (Interruptions) hence after the judgement of the High Court a legal Government should formed in U.P. immediately... (Interruptions) it should be formed immediately... (Interruptions)

[English]

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : You are going against the Court by denying those five days to the Government... (Interruptions) The Court has given the time till 26th and you want to deny that... (Interruptions)

SHRI GEORGE FERNANDES (Nalanda) : Sir, I am on a point of order on a constitutional issue... (Interruptions)

SHRI NIRMAL KANTI CHATTERJEE : You think that as of today you are a super force, that is the position... (Interruptions)

DR. MURLI MANOHAR JOSHI : No, we are not. The question is that the Proclamation is void.

[Translation]

Please go through the constitution. The Court has stated that you are being given five days time to form the Government.

[English]

MR. SPEAKER : Shri Joshi, you kindly conclude.

DR. MURLI MANOHAR JOSHI : Sir, I am being interrupted. I need your protection.

[Translation]

The proclamation issued by the President under Article 356 has been quashed by the High Court. What will be its repercussions or consequences.

[English]

Has the Ministry of Law examined it?

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA) : What is there to examine?...*(Interruptions)*

[Translation]

DR. MURLI MANOHAR JOSHI : The High Court has given five days time to form the Government and initiate the process and it has quashed the proclamation made by the President. This extension has not been given because proclamation is valid.

They have given five days time to complete the formalities...*(Interruptions)*

[English]

SHRI GEORGE FERNANDES : Sir, I am on a point of order.

MR. SPEAKER : There is a point of order. Could you please tell me the rule?

[Translation]

SHRI GEORGE FERNANDES : Mr. Speaker, Sir, I would like that the Minister of Home Affairs should put forth some fact relevant to the points raised on the floor to the House...*(Interruptions)*

[English]

The full Bench of the High Court has said that the ratification of President's rule by Parliament was unconstitutional. This is what the High Court has said. If you have got, tell me. The High Court has said that the ratification of the President's rule was unconstitutional.

DR. MURLI MANOHAR JOSHI : I only started reading the Constitution. Before that I was interrupted. I was reading from the Constitution.

(Interruptions)

[Translation]

SHRI RAJENDRA AGNIHOTRI (Jhansi) : There is no use to stand like this. Please listen.

[English]

SHRI NIRMAL KANTI CHATTERJEE : Do you have the judgement?...*(Interruptions)*

SHRI GEORGE FERNANDES : I do not have the judgement. But I have the information...*(Interruptions)*

SHRI NIRMAL KANTI CHATTERJEE : You have your information and you immediately go into this...*(Interruptions)*

SHRI GEORGE FERNANDES : Yes, I have the information. But I stand by what I am saying.

DR. MURLI MANOHAR JOSHI : Let me ask whether the Minister of Home Affairs has this information or not.

SHRI GEORGE FERNANDES : It is high time that the High Court had said it.

[Translation]

Mr. Speaker, Sir, please listen my point of order.

[English]

SHRI PRAMOTHES MUKHERJEE (Berhampore) (WB) : Parliament has the right to legislate the Proclamation. What my friend says is not correct...*(Interruptions)*

MR. SPEAKER : I have given the floor to him.

[Translation]

SHRI GEORGE FERNANDES : Mr. Speaker, Sir, my point of order is that when the High Court has given its judgement that the motion passed by the Parliament is unconstitutional then it means that the President rule imposed in U.P. should be quashed at once...*(Interruptions)*

SHRI RAJENDRA AGNIHOTRI : Just apply your brain...*(Interruptions)*

[English]

DR. MURLI MANOHAR JOSHI : This is what I am saying.

SHRI GEORGE FERNANDES : I have still to get the judgement of the High Court but I have the information. I stand by my information. I am not misleading the House.

MR. SPEAKER : Why do you not listen to him? I will give my ruling.

(Interruptions)

MR. SPEAKER : Please sit down. Shri George Fernandes has raised a point of order.

SHRI ANIL BASU (Arambagh) : Is it on the judgement of the High Court? What is it?

MR. SPEAKER : No, let us hear him. It is for me to give the ruling. Please be quick.

[Translation]

SHRI GEORGE FERNANDES : Mr. Speaker, Sir, I want to say that at the time when this motion was introduced in this House most of us had said that Under Article 356 (5) the Parliament has no power to extend the time limit of President's rule beyond one year. The High Court has given its judgement that the decision of the Parliament is unconstitutional and it has no power to extend the time limit of President's rule beyond one year.

There are two points. Firstly, they have declared the line of action of the Government unconstitutional. This is not an ordinary thing. You are accountable to the Constitution. You have taken swear that you will rule according to the Constitution. It is the responsibility of the President, the Prime Minister or the Minister of Home Affairs. The Attorney General keeps a watch on them.

Therefore, I would like to know also who gave them this advice to interpret Article 356 (5) of the constitution because the High Court has condemn the action of the Parliament by declaring it unconstitutional what does this mean for the Parliament and U.P. I want to say that when this judgement was delivered at 10.30 A.M. or so, the proclamation issued by the President is automatically quashed. Mr. Speaker, Sir, perhaps the Government is not aware that there is a point of order... (Interruptions)

[English]

MR. SPEAKER : Shri George, you have made your point.

[Translation]

SHRI GEORGE FERNANDES : My last point is that when it is clear that this act is unconstitutional, when the court had directed that a popular Government should be formed there within five days, this discussion is totally irrelevant. Our demand is that the steps should be taken to form a Government in a constitutional way. It should not be delayed further and the largest party should be invited to form the Government.

[English]

JUSTICE GUMAN LAL LODHA (Pali) : Mr. Speaker, Sir... (Interruptions)

MR. SPEAKER : We are not on Item No. 17, we are on the statement of the Minister.

JUSTICE GUMAN LAL LODHA : I want to supplement him, Sir, because it is a very important matter.

MR. SPEAKER : I have called Shri Fatmi now.

[Translation]

SHRI MOHAMMAD ALI ASHRAF FATMI (Darbhanga) : Hon'ble Shri George Fernandes has raised this point that how the President's rule was continued in U.P. for more than one year. I would like to state that for how many years the President rule was continued in Kashmir... (Interruptions)

[English]

MR. SPEAKER : No, it has no relevance.

(Interruptions)

MR. SPEAKER : I have overruled his point of order.

[Translation]

SHRI GULAM RASOOL KAR (Baramulla) : Mr. Speaker, Sir, I have no hesitation in saying that the Government uses Article 356 arbitrarily. I agree with opposition that Article 356 should not be used frequently or arbitrarily. The President's rule was imposed in Kashmir for seven years. The High Court has given its verdict in regard to this Article. The court has quashed the proclamation. Now it has to be seen that on what basis this proclamation has been quashed. What were the irregularities done while issuing this proclamation. This is a law and involves technicalities. The Government should amend it. The proclamation can be issued or a writ can be filed in the Supreme Court against it. The High Court has given its judgement and awarded death punishment to the guilty. Now the guilty has a right to move the Supreme Court against it. Anyhow now you please give your ruling in this regard.

[English]

SHRI JASWANT SINGH (Chittorgarh) : Mr. Speaker, Sir, there are three separate aspects of the issue with which we are seized, and I wish to make that distinction only so as to facilitate what we are engaged with at this moment. One of the issues is what is listed in today's Business under Item No. 17, which is a particular piece of legislation relating to the State of U.P.

To that we are yet to apply ourselves. The second aspect is this morning's judgement of the Allahabad High Court which has created a situation out of which we, with your permission, demanded a statement from the Government as to what their reaction is. That, Sir, is the third aspect that of the Government's reaction. The Government's reaction has to be above all, it has to be seized of and, I think, address itself to a very important pronouncement by the Allahabad High Court.

And here I appeal to the Government that the issue raised is of such a profound importance the second aspect, that if we find absence of even a recognition of that the Allahabad High Court has said? The Allahabad High Court has said that the decision taken by Parliament in respect of approving the proclamation of President's rule in the State of Uttar Pradesh is unconstitutional...*(Interruptions)*

SHRI RUPCHAND PAL : They have said so!

SHRI JASWANT SINGH : This is a very serious matter. They have said so. It is a very serious matter.

Sir, I am not on Item Number 17. I am not on other aspects. I am on the aspect of the High Court of Allahabad saying that the decision by Parliament to validate the imposition of President's rule is not constitutional. This is a very serious matter. It was our expectation. I would be very happy...*(Interruptions)* I think the issue that has come up is really beyond the immediate party differences. I am frankly not surprised that my friends in the Left have come prepared after lunch to try and beat us down on the issue on which otherwise they agree...*(Interruptions)* They agree on it otherwise.

SHRI RUPCHAND PAL : Yes.

SHRI JASWANT SINGH : I am very glad.

SHRI NIRMAL KANTI CHATTERJEE : Sir, as a piece of information we agree even without lunch.

SHRI JASWANT SINGH : I am very glad that you are with us. I am very glad that you are with us on the issue of Article 356...*(Interruptions)* Are you with us or not on the issue of Article 356?

SHRI RUPCHAND PAL : Always we had been - not with you. We never wanted that Article 356 should be imposed on any State for that matter.

SHRI JASWANT SINGH : That is very good. That is what I wanted to know.

SHRI RUPCHAND PAL : But it was some very special circumstances under which it had to be done because you are trying to indulge in horse-trading without which you cannot form the Government...*(Interruptions)*

SHRI JASWANT SINGH : I think, you only underlined the point I am making.

MR. SPEAKER : I think you have made the point clear.

SHRI JASWANT SINGH : Sir, the issue on which this House in principle is seized of is if the Allahabad High Court has said, as I believe it has said, that the decision of Parliament to approve of the proclamation of President's rule in the State of Uttar Pradesh is unconstitutional, then that is a very serious issue. It is

on that, that we expected a reaction from the Government. My good friend, Shri George Fernandes, when he says what we have, he was going to the other aspect. The other aspects which are the practical aspect is that if it is unconstitutional then the continuance of the Governor and all other things is unconstitutional. Those flow from that. But the centrality or the seriousness of the pronouncement has been completely omitted by the Government and it is the lack of that which is our complaint...*(Interruptions)*

MR. SPEAKER : I will allow you.

(Interruptions)

SHRI GEORGE FERNANDES : Sir, please allow me to read so that it becomes meaningful...*(Interruptions)* Sir, I only want the discussion to be meaningful. So I will read this...*(Interruptions)*

JUSTICE GUMAN MAL LODHA : Sir, please hear us before you give a judgement.

MR. SPEAKER : I am not giving a judgement.

JUSTICE GUMAN MAL LODHA : Sir, it is a very important matter. Before you give a judgement on the point of order...*(Interruptions)*

MR. SPEAKER : Do not bring that. I do not understand the subject.

JUSTICE GUMAN MAL LODHA : Sir, you understand the subject.

MR. SPEAKER : Why do you anticipate that?

JUSTICE GUMAN MAL LODHA : But we have to understand. Therefore, you must allow us...*(Interruptions)*

MR. SPEAKER : Justice Lodha, every time you are getting up like this! It is not correct. Please sit down.

JUSTICE GUMAN MAL LODHA : Sir, you must allow us.

MR. SPEAKER : Please sit down.

JUSTICE GUMAN MAL LODHA : How can you refer to this matter?...*(Interruptions)*

MR. SPEAKER : Justice Lodha, I say, you please sit down.

(Interruptions)

MR. SPEAKER : What kind of a Member are you? What an hon. Member are you?

(Interruptions)

JUSTICE GUMAN MAL LODHA : Sir, You have to allow me to express my opinion. You cannot give the judgement...*(Interruptions)*

MR. SPEAKER : The Members do not have respect for the Chair. I am sorry.

(Interruptions)

MR. SPEAKER : Nothing will go on record.

*(Interruptions)**

MR. SPEAKER : Justice Lodha, you are a former Chief Justice. I think your behaviour has to be better than others.

(Interruptions)

MR. SPEAKER : You have to be better than other and lead.

(Interruptions)

MR. SPEAKER : I only wanted to point out - I agree that it is a very important subject - that the High Court has reportedly given a judgement saying that what Parliament had done, ratification by Parliament, is unconstitutional. It is a very serious matter. This is where, I think, the House has to apply its mind. But to say, Dr. Joshi, that because of this judgement the automatic effect is that there is no Government there, would not be correct because the Home Minister's statement also says that this judgement will come into operation with effect from 26th of December. That is specific. This is the only thing I want to point out. You can say the rest. Let us not comment on that point.

[Translation]

SHRI GEORGE FERNANDES : Mr. Speaker, Sir, I had been interrupted several times so I went to Parliament Library and brought PTI new Bulletin with me...*(Interruptions)* Mr. Speaker, Sir, if the Hon'ble members still keep on arguing over this judgement published by P.T.I. from Lucknow, then I feel sorry for them. The members make much hue and cry everyday over the news appearing in newspapers and now when an important issue is being discussed here, they are making noise. This should not be taken lightly.

This news has been published from Lucknow.

(Interruptions)

SHRI RUPCHAND PAL : It is you who dances.

SHRI SOMNATH CHATTERJEE : His language is lacking in propriety.

SHRI GEORGE FERNANDES : I fail to understand why do you stand in their defence...*(Interruptions)*

[English]

Lucknow, December 19, PTI :

"In a historic verdict, every member, Full Bench of the Allahabad High Court today quashed that Presidential notification imposing President's rule in Uttar Pradesh. The judgement by the three-member Bench

comprising Mr. Justice B.M. Lal, Mr. Justice Brijesh Kumar and Mr. Justice Markandey Katju was unanimous. The Special Bench also ruled that the ratification of the President's rule in Uttar Pradesh by the Parliament was 'unconstitutional'.

The next sentence here is that :

"The Bench said that the order to this effect will become operative from December 26."

Now, Sir, the point is that the order become effective from December 26, but the fact that we have committed an unconstitutional act remains. That does not change.

If the legal luminaries are now wanting to argue that that also changes, I, with great respect to all the legal luminaries, not only beg to disagree with them but want to assert that they are again repeating that mistake. It is suggested that despite Article 356, why should we adopt this Resolution here. I hope that this particular aspect will be taken into consideration by this House and particularly by you because you are the upholder of the Constitution and all of us are standing here to uphold the Constitution.

SHRI G.M. BANATWALLA (Ponnani) : Mr. Speaker, Sir, you have rightly pointed out from the Chair that the order becomes effective only on and after 26th of the month. That means that the President's rule continues unless it is revoked by the Government. That is a different matter. But the present situation is that here we have been told again and again as to what the situation is at the moment. At the moment, President's rule continues and therefore, there can be no points of order. Therefore, there is no bar on Parliament also to proceed with the other work as listed in Item Number 17. That is one aspect of the whole thing. The second aspect is that we have to take this into consideration that even the High Court of Allahabad considers the matter very grave and said specifically that the order will become effective only after 26th of the month.

Here, we have certain sections of the House asking for an immediate reaction. Even the court did not want an immediate reaction. Even the court realised that this is not a matter where the Government may be able to come forward with an immediate reaction. The court has also given time. Moreover, the advocates of the Government also appealed for time to go the Supreme Court.

Then the Court has said that this one week's time is there for them even to go to the Supreme Court. So, even the matter with respect to constitutionality or otherwise of the proclamation is not final. When the situation is of such importance, when there were two Judges of the Division Bench there was a conflicting opinion. Then a three-Judge Bench was constituted.

When such an important thing is there, I must appeal to the Government to go to the Supreme Court also in order to get the directions in the democratic traditions of our country. Let the matter be decided once and for all by the Supreme Court, in order to uphold the democratic traditions in our country.

As far as this House is concerned, the order is not effective. We cannot take cognisance of the same.

SHRI SHIVRAJ V. PATIL (Latur) : Mr. Speaker, Sir, this is a very important matter. It involves the imposition of President's rule in Uttar Pradesh and the right of this Parliament to pass a Resolution approving the imposition of President's rule in Uttar Pradesh.

These are two different issues as has been rightly pointed out by some hon. Members. In a matter like this, I am wondering whether this body—which is at the apex, which is the highest body in the country—should consider this matter without having the copy of the judgement with us, because if we do say certain things without fully understanding what has been written, what has been said by the Judiciary we are likely to commit mistakes and if we commit that mistake, it would not give very correct signals.

So on the one hand, one can have the opinion whether President's rule should have been imposed in Uttar Pradesh or not, whether the assessment of the Governor was correct or not, whether a party should have been invited to form a Government or not, these are the issue on which one can have one's own views, one's own opinion and very sincere opinion also. But when the power of this Parliament to pass a Resolution is questioned by the Judiciary, whether it has been done properly or not, it has to be very carefully seen and my appeal would be that a matter of this momentous nature should not be discussed without going through the entire judgement.

SHRI SOMNATH CHATTERJEE (Bolpur) : Mr. Speaker, Sir, my hon. friends on that side have raised very important questions. There is no doubt about it. In view of the fractured politics that we are having, a situation like this may happen in any State. Therefore, let us not try to do something in a hurry or say something which will only complicate the issue, because we cannot solve it here. On the face of a judicial decision against which, whether the Government will go to the Supreme Court or not, it is for the Government to decide. But there is an opportunity to go to the Supreme Court, that is, the highest forum and it may be worthwhile to have the opinion of the highest judicial authority.

So far as I have been able to understand the position from the information that I have got, it is also a question as to whether a second proclamation was possible. I do not know; my friends on that side seem to know much better. So, this is the important question.

What is the true interpretation of article 356 (5) of the Constitution? After the expiry of one year, it is difficult to say whether the proclamation is withdrawn or it comes to an end and then another proclamation is to be issued.

15.00 hrs.

It is very difficult to give an off hand opinion. Even our opinion is not final in the sense that judicial opinion will prevail; the Supreme Court opinion will prevail. Therefore, this is a matter which, as I said, we should hasten slowly. My request to my friends here is that if you think that you are entitled to form the Government or you are alone able to form the Government with or without her, it is for her to say. You have to find that position. I am not saying either way. But what Shri George Fernandes says, yes, obviously it has been unconstitutional therefore it has been set aside and if it had been constitutional, it would not have been set aside. But even that declaration of unconstitutional has been stayed by the Court consciously.

SHRI JASWANT SINGH : They have not stayed.

SHRI SOMNATH CHATTERJEE : They have said, 'it will come into operation from 26th'. So, let us not quibble about words. Shri Jaswant Singh, I do not know about your recent visit to Harvard.

SHRI JASWANT SINGH : Sir, I am sure as an eminent Barrister he knows the difference between 'stayed' and 'not stayed'. I am not quibbling about words.

SHRI SOMNATH CHATTERJEE : Sir, with all humility accepting his encomium about my so called eminence, I said, 'therefore I know'. Sir, Shri Shivraj V. Patilji has rightly said that we may wait for it. Today nothing can be done or ought not to be done also. This is a serious matter. Anybody can fail. I do not know what will happen to you when you come here. Maybe, Article 356 may become your daily routine. Nobody knows. Therefore, let us not say such things. The days of sermonising are over. We cannot forget how you have misutilised those 13 days.

DR. MURLI MANOHAR JOSHI : We also know how you have been misutilising so many years in West Bengal.

SHRI SOMNATH CHATTERJEE : Thank you. Therefore, you have learnt something from us, Sir, because of the solemnity of this matter, seriousness of the question and unfortunate risk of repetition of this situation in the future, let us wait, at least, until the judgement is available. In any event whether we like it or not a very grave question has been raised by Shri Shivraj Patil - a very eminent Member - namely, the relationship between the different organs of the State. Today, it is very difficult to say who is encroaching where. What we are saying in private, we are not always able to say in public.

SHRI ATAL BIHARI VAJPAYEE (Lucknow) : This question has not been raised for the first time. This question has been settled. It is for the Court to decide whether the House had acted in a constitutional manner or not. Shri Speaker, Sir, I am sorry to interrupt.

SHRI SOMNATH CHATTERJEE : Shri Vajpayee, you have not understood. I am sorry. I think, my language has not been specific. I am saying about the relationship between the different organs — it is not only in this case — what is the parameter of Judiciary, what is this Legislature and what is this Executive. Everybody is expressing concern about it.

DR. MURLI MANOHAR JOSHI : Who is to interrupt the constitutionality — we, or the High Courts or the Supreme Courts?

SHRI SOMNATH CHATTERJEE : Let us not.

DR. MURLI MANOHAR JOSHI : This is the question you are raising. You are raising this very question.

SHRI SOMNATH CHATTERJEE : Your mixture of physics and politics has finished you.

DR. MURLI MANOHAR JOSHI : I am a better politician because I a physicist. Shri Chatterjee the question which you are raising.

MR. SPEAKER : Let us not argue like this. I think, it is a serious thing and let us give a proper thought to it.

SHRI SOMNATH CHATTERJEE : I am giving my view. They are not agreeing to any good suggestion which I am giving. What can I do? Today, they have become totally impervious to anything good.

Sir, I appeal to the House, through you, that this is a very important matter. It involves the interpretation of the Constitution and the interpretation of different roles of the different State organs. This is not the final occasion when this question has risen. I apprehended that it is going to come up very soon with greater frequency. Therefore, this is a very serious matter and let us wait. I think, Shri Pramod Mahajan wants to be present there at the swearing in ceremony of the Chief Minister. Sir, I was watching TV the other day and I found that he was very upset about it. He was saying, 'why is his Government not being allowed to be formed in Lucknow'? Therefore, he would go to Lucknow. Therefore, let us wait till 26th. That is my request.

[Translation]

SHRIMATI SUSHMA SWARAJ (South Delhi) : Mr. Speaker, Sir, when there is any adverse decision against the Government then the Government by concealing its facts or merely shouting from the treasury benches cannot change this adverse decision to a favourable one.

I am sorry to state that this is being done in the House...*(Interruptions)* The Judgement of the court is very clear...*(Interruptions)* There is no ambiguity in the courts Judgement. Mr. George Fernandez took the cue from PTI and put forward as views in 'Quotes' and 'unquotes'. It is clearly stated in that...*(Interruptions)* in Uttar Pradesh...*(Interruptions)*

PROF. RASA SINGH RAWAT (Ajmer) : It is very objectionable that is going on. Such type of behaviour is very objectionable when honourable member is speaking...*(Interruptions)* it is going on for a long time...*(Interruptions)* She has bowed her head down...*(Interruptions)* it is a very objectionable for a member.

[English]

MR. SPEAKER : Please sit down. Enough is enough.

(Interruptions)

MR. SPEAKER : Please take your seats.

[Translation]

SHRI MOHAMMAD ALI ASHRAF FATMI : For whom are you speaking?...*(Interruptions)*

[English]

MR. SPEAKER : Shri Fatmi, Please sit down

(Interruptions)

SHRI MOHAMMAD ALI ASHRAF FATMI : Sir, we will not allow such things...*(Interruptions)*

MR. SPEAKER : Why are you standing? Please sit down.

[Translation]

SHRI MOHAMMAD ALI ASHRAF FATMI : I have not yet completed my speech and pandemonium has started...*(Interruptions)*

MR. SPEAKER : Go on making Pandemonium! You are getting the appreciation of the whole country for the way you are behaving in Parliament. Carry on pandemonium.

(Interruptions)

[English]

MR. SPEAKER : Please do it. Carry on.

(Interruptions)

MR. SPEAKER : I am allowing it. Please go on.

(Interruptions)

MR. SPEAKER : Let them carry on. I am allowing every one of them.

(Interruptions)

SHRI NITISH BHARDWAJ (Jamshedpur) : Mr. Speaker. Sir. I think you are blaming us. You have to blame them...*(Interruptions)* We were all quiet when Shrimati Sushma Swaraj was speaking. Why are you blaming this side?

MR. SPEAKER : No. I am not. You are not looking to what I am doing. I have told him not to do this. I have warned them. Was it not enough? I have told them to behave.

(Interruptions)

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF TOURISM (SHRI SRIKANTA JENA) : Mr. Speaker. Sir. I am really very sorry for him. Why is he reacting in this way? Who has said what? Why are you shouting unnecessarily?...*(Interruptions)* Nobody has said anything. You are shouting unnecessarily. There is a limit to everything. Why are you shouting?...*(Interruptions)* Nobody should behave in this way in the House. Behave yourself...*(Interruptions)*

Nobody has said anything. You are shouting unnecessarily. This is not correct. The Speaker is there to regulate the House...*(Interruptions)* In this way also you cannot control this House. The Speaker is there to control the House. Behave yourself...*(Interruptions)*

[Translation]

SHRI ATAL BIHARI VAJPAYEE : May I speak with your permission...*(Interruptions)* they are speaking without your permission...*(Interruptions)*

[English]

SHRI SRIKANTA JENA : You cannot just raise your voice and shout down this House...*(Interruptions)*

[Translation]

SHRI ATAL BIHARI VAJPAYEE : Whatever has happened that is very unfateful. If such a situation comes up in the House while discussing a serious issue then...*(Interruptions)*

PROF. AJIT KUMAR MEHTA (Samastipur) : These people belong to Bajrang Dal...*(Interruptions)*

SHRI ATAL BIHARI VAJPAYEE : Mr. Speaker Sir. I would not like to use such harsh words. It would be better to be a member of Bajrang Dal instead of being a member of any 'moorkh dal'...*(Interruptions)* Mr. Speaker. Sir. I am speaking with your permission...*(Interruptions)*

[English]

SHRI SRIKANTA JENA : We need not react if the leader of opposition is telling something. When he uses the words 'moorkh Dal', it is upto him to Judge whether it is proper or improper.

[Translation]

SHRI ATAL BIHARI VAJPAYEE :

[English]

I did not say that

[Translation]

You know that I never use any derogative language for any member...*(Interruptions)* You had given a chance for Sushmaji to speak her speech was not heard silently. It may be that the member on the other side was interrupted while he was speaking and he might have been very annoyed for that, and that is why Sushma Ji's speech was interrupted, but it should not have happened...*(Interruptions)* You were also stopping them...*(Interruptions)*

[English]

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : You have lost your courage to handle them...*(Interruptions)*

SHRI ANIL BASU (Aram Bagh) : We all respect you. If something is said in the name of Bajrang Dal from this side, why are provoked? You are a very senior Member of this House.

SHRI ATAL BIHARI VAJPAYEE : We are members of the B.J.P. where does the Bajrang Dal come in? What do you mean by that?...*(Interruptions)*

SHRI ANIL BASU (Aram Bagh) : You are a very senior Member of this House.

SHRI NIRMAL KANTI CHATTERJEE : Why have you lost your courage to handle them? That is why, you are in this situation now...*(Interruptions)*

[Translation]

SHRI ATAL BIHARI VAJPAYEE : Did you pronounce the name of Bajrang Dal with respect? With which intention did you mention the name of Bajrang Dal. If you had mentioned the name of Bajrang Dal with respect then I am prepared to take my words back...*(Interruptions)* Please, sit down, it is too much...*(Interruptions)* Mr. Speaker Sir, now Jena Sahab has also joined in this. Mr. Jena, you are not only a Member of this House but you are also a Minister. A Minister has a greater responsibility. A Minister will have to hear everything told here and he will have to tolerate it.

(Interruptions)

[English]

SHRI SRIKANTA JENA : I know that and I am ready for that. I did not say that...*(Interruptions)*

[Translation]

SHRI ATAL BIHARI VAJPAYEE : You have violated the decorum. Whichever may be the discussion it should be held in a peaceful atmosphere.

SHRI SRIKANTA JENA : Yes, Sir, it should certainly be held in peaceful manner.

SHRI ATAL BIHARI VAJPAYEE : I would also ask the members of my party to follow it...*(Interruptions)*

[English]

MR. SPEAKER : Why are you coming in between?

[Translation]

SHRI MUKHTAR ANIS (Sitapur) : Sir, during the speech of Sushmaji members of your party started shouting...*(Interruptions)*

SHRI ATAL BIHARI VAJPAYEE : If the members of my party have started shouting then it is wrong on their part and if it is from the other side then it is also wrong but Mr. Jena came in between and I am sorry for that...*(Interruptions)*

[English]

MR. SPEAKER : It is such a small thing and unnecessarily we are creating this kind of a situation. Well, when Shrimati Sushma Swaraj was speaking, hon. Member Taslimuddin was laughing very loudly. I objected to that. If any hon. Member wants to laugh, he may please go out and laugh there, but not in the House. When I told him not to laugh like that, what was the necessity for you to stand up and create this noise? This is not fair.

SHRI SONTOSH MOHAN DEV (Silchar) : I think we can smile!

MR. SPEAKER : You can smile!

SHRI SOMNATH CHATTERJEE : I hope the Chair will not lose his smile.

MR. SPEAKER : No. You can also laugh when there is a situation to laugh. But one should not laugh when a serious matter is being discussed. That means your attention is somewhere and not in the House. That is what I would like to say.

SHRI SONTOSH MOHAN DEV : Only today and tomorrow have been left for the House. We are to finish many matters. So, when one hon. Member is speaking, let others not interfere. But you can give a chance for other hon. Members to answer as in Zero Hour.

MR. SPEAKER : That means the whole day will be Zero Hour.

[Translation]

SHRIMATI SUSHMA SWARAJ : Mr. Speaker Sir, I would like to thank you for bringing the House in order.

I was telling that there is no ambiguity in the news that has been quoted from PTI 'TRICKLE' but since only one thing could be attributed to 'TRICKLS' so I have read that sentence. Shri Shivraj Ji has expressed the same views here that meaningful discussions can be held only when we receive the copy of the judgement and read it. I would only like to ask through you that who were responsible to provide the text of the judgement here was it the responsibility of those sitting in the opposition benches or of the Government?

Mr. Speaker, Sir, I would like to submit here that directions, given by you in the morning have not been followed rather these are violated. You had specifically directed the Government to get hold of the copy and make a statement by two o'clock, whereas there was no need of it. With our advanced communication system we could have received it through fax, S.T.D. or Courier service. What was that judgement, what was its operative part. The Government should not have allowed the delay to find it out but it wanted to conceal it even in the morning. You intervened in between and allowed time for it. You had to make a Statement in a time bound manner. The matter of "PTI TRICKLE" should have come into your statement. For how long would you conceal it. For how long it would continue. The judgement was announced before so many people. The P.T.I. correspondent took the 'TRICKLE' and sent the copies of the same and by the evening it would be distributed. For how long would you conceal it. Even the Court has declared it as unconstitutional the steps taken by the Government to pass the motion which has been passed in spite of our opposition. Therefore, I would like to say that the Government and not we have stopped meaningful discussion and had the directions of the Speaker been complied with and the text would have been included in the Hon'ble Minister's statement then a meaningful discussion could have been possible here. This is my first point my second point is that there is no dispute to the fact that the Court has termed it unconstitutional in its judgement. Shri Somnathji was talking about imposing President's rule under article 356 (5). Perhaps, no one knows it better than Shri Somnathji that we had brought this amendment with your help during Janata Party's regime. We had brought it to stop the misuse of article 356. That is why we had said that President's rule should not be imposed for more than six months at a time and not more than a year in toto. One of our friends have mentioned about J & K, and one of our friends from J & K has said about double standards, the President's rule was imposed for five years in J & K. Constitutional amendments were brought in regard thereto and two third majority is required for this. Since the Government could not muster a two-third majority it had to resort to elections and after the election they did not want a B.J.P. Government to be installed there. Therefore President's rule was

imposed within five months. Now, my point is that the time was taken for the political process in the State but the present Government has no right to remain in power since it has passed a motion which is unconstitutional ...*(Interruptions)* The leader of our party had demanded resignation from the present Government, but whatever was flashed through PTI amounts to strictures against the Government. They have belittled the glory of the House by bringing in this resolution they have passed an unconstitutional motion.

Therefore, the Government should resign forthwith and the coming political process should be done according to the views formed thereupon. Therefore, I would like to tell Shivraj Ji that it is not our responsibility, the responsibility is of the Government. The Government could have initiated meaningful discussions on the issue but they have not done the same. Therefore, we again ask for the resignation of the Government for doing unconstitutional work. The present Government should tender resignation immediately.

SHRI SHIVRAJ V. PATIL (Latur) : I was not speaking anything against Sushma ji's party. I was merely saying that whether it has been mentioned in the said judgement that the basis for imposing President's rule was wrong or whether it has been mentioned in the judgement that the House do not have power to cast vote like this on this issue. All these issues are very important. The main issue is that after what period a Government should be formed, how it should be done and whom should be could in. One may have one's own views on it and he may speak spontaneously over it. We are being told to discuss the judgement which runs into 50 to 60 pages on the basis of few lines input received through PTI trickle in the House. - I think it is not proper. I have merely said that. The opposition members have right to press for the formation of a Government led by their party if it is in majority. Nobody can stop that. If the judgement comes it would be binding on the Government. The Government could do nothing in this matter. It may approach the Supreme Court at the maximum. They will have to wait till judgement of the apex Court is pronounced. There is no other way out for them. But it is not proper to discuss such important issue in the House in a situation when we are being told that one institution has sided with the other one. I have only this much to say.

[English]

MR. SPEAKER : I think it is enough. I have heard your views on this issue. I will close it.

[Translation]

SHRI PRAMOD MAHAJAN : Mr. Speaker, Sir, we have been discussing this topic for an hour that the Hon. High Court has held in its verdict that imposition

of President's Rule on the state is invalid? Why did Court declare President's Rule invalid? As it has been pointed out by Shri Shivraj, there can be three or four reasons for declaring Presidents Rule invalid. While discussing if we find out the correct reason, then it will be easy to discuss. This is true. Tomorrow is the last day of this session. The discussion which we have started today is about the Statement made by Home Minister. We are discussing the reactions of the Government on the Judgement of High Court. What is reason behind it, how to make a discussion over it, how to make that discussion meaningful and when to do that discussion?

These all are important issues and whatever has been put before us by Senior MPs is very important. But the most important point is this that you should continue discussing the reasons which prompted the High Court to make this verdict irrespective of your liking or disliking for it. But what is the reaction of the Government on that judgement of the High court that declares President's Rule invalid. Someone has said that Supreme Court should be moved in this regard, and a special session should be summoned to reach a conclusion by discussing it throughout the night and the next day. The Government should explain as to what step it proposes to take in face of the Court verdict declaring the President's Rule invalid, which was ratified by the Parliament, then what should be Government's next step? This point must have been covered in the statement of the Home Minister but Govt. hasn't said anything about it. The whole statement of the Govt. is merely a history given in chronological order. What does Govt. want to do in this regard.

Mr. Shivraj said that Government will take decision on it tonight and it desires to be discussed tomorrow, so that it may reply to the debate in this regard. The Government can say even this that it wants to go to the Supreme Court. Government can say that it will abide by the decision. But Government hasn't said anything about it that is why all the discussion has proved futile.

[English]

MR. SPEAKER : Shri Pramod Mahajan, I think you have made your point, sit down, please.

Mr. Home Minister, would you like to say anything? We will close it after that?

SHRI INDRAJIT GUPTA : Sir, I am not in the happy position of some Members here of being able to emphatically state a particular opinion or my judgement without having had an opportunity to peruse or to study the judgement of the court, which we have not received. We do not know, what grounds they have given. What their arguments are, we do not know. All we said, was that once we receive that judgement and study this, we

will have to decide our future course of action, and we will come before the House with that immediately. But beyond that, at this stage, this is not possible to go.

Many things can be argued. If the court has really held that the ratification by the Parliament of the imposition of the President's Rule was unconstitutional and therefore, there is no Government now in U.P. or if there is, anybody claims that there is Government, that is unconstitutional Government, then it is also unconstitutional for the court who has given time upto 26th December. What for have they given time? If according to some friends here, the whole thing is unconstitutional, there is no Government there then, why have they given time upto 26th December? It does not make any logic, it does not make any sense.

Therefore, Sir, whatever we decide to do, we will do and we will inform the House as soon as we receive the copy of that judgement or the report of the judgement. Here, we are well aware of the fact that certified copy of the judgement takes considerable time to come. But the report on the judgement can be obtained. After all, what is the PTI's report? That is also a report. Certainly, as soon as we receive the report which we are awaiting from Lucknow, on that basis, we will decide our future course of action and then we will come before the House with that. We cannot be in a hurry to jump to the conclusion.

Shri Shivraj Patil has said, in my view, everything that should be said and constitutionally proper attitude he has taken. Being a former Speaker of this House, he reacted very sharply to the possibility of there being conflict created between the different organs of the State. Therefore, we have to be cautious and careful.

I may tell you, Sir, though it is my personal opinion, that tomorrow in this country, the way things are being developed... (Interruptions)

MR. SPEAKER : Please listen to him. What is this? You are not understanding, what he is saying.

SHRI INDRAJIT GUPTA : Sir, the way the things are developing in a political situation in this country, there is every possibility that in more than one State, in future, a situation may arise when no party is able to command the majority in the Assembly and may not also be able to form the coalition. Then what will happen? We have to think about these things from now. If such a situation arises what to do? There may be a largest single party — it may not always be the BJP, it may be some other party also.

But I do not know, if the judgement of the court - which we have not had the good fortune to study yet - leads to the conclusion that the largest single party every time should be called in case nobody has got a majority, then that would be setting a completely new precedent and new course of action to follow.

So, we must go into all these matters and I would only humbly request the hon. Members opposite to hold their patience till the judgement is available and further hold the judgement till 26th December.

That is all. I have to say.

MR. SPEAKER : I think, it is okay.

Now, the Legislative Business, Bills for consideration—Item No. 17, Shri Indrajit Gupta.

15.30 hrs.

RE: UTTAR PRADESH STATE LEGISLATURE
(DELEGATION OF POWERS) BILL*

[Translation]

SHRI PRAMOD MAHAJAN (Mumbai-North East) : I have objection on this only.

(Interruptions)

[English]

MR. SPEAKER : Let me see, what he is going to do.

SHRI RAM NAIK (Mumbai North) : Sir, when a discussion on any Bill is to start, normally the Minister makes a statement. Now, the Home Minister should make, first, the statement as to what it contains. He should guide us in this regard and then the debate can start.

MR. SPEAKER : I am calling him for that only.

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA) : First, Sir, I should be allowed to move the motion for consideration and then I will make a short statement.

JUSTICE GUMAN MAL LODHA (Pali) : Sir, the leave may be granted subject to my objection. I may be heard on that point.

SHRI INDRAJIT GUPTA : By virtue of the Proclamation issued by the President on 17th October, 1996 under Article 356 of the Constitution, the powers of the Legislature of the State of Uttar Pradesh are now exercisable by or under the authority of Parliament. Under Article 357 (1) (a) of the Constitution, Parliament is competent to confer on the President the power of the Legislature of the State to make laws, and to authorise him to delegate, subject to such conditions as he may think fit to impose, the powers so conferred to any other authority to be specified by him in that behalf.

* Published in the Gazette of India, Extraordinary Part-II, Section-2 dated 19.12.96