

Title: Regarding strike by the lawyers.

15.03 hrs.

STATEMENT BY MINISTER

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RAM JETHMALANI): Thank you Madam for permitting me and thanks to the hon. Members of the House.

There has been a highly regrettable and unfortunate incident yesterday in the vicinity of Parliament during which several lawyers and police personnel have been injured, some rather seriously. I had promised the other House yesterday to make a statement after making some inquiry. Unfortunately, that has not been possible.

Now, I will take your permission to first go to the last paragraph of this Statement and then I will come back to the first part.

I am glad to report that responsible representatives of the Bar met the hon. Prime Minister this afternoon. It has been decided to start the dialogue on the basis of this Statement.

Various Lawyers' organisations had given advance notice of a strike from court work scheduled for Thursday, the 24th February. The Secretary of the Delhi Bar Association and some of his colleagues saw the police on Wednesday the 23rd and the route and timing of the proposed procession and demonstration were sorted out. Nothing untoward was expected. Every one believed that there would be a peaceful march which would end at the usual barricades with presentation of a representation by selected lawyers.

Unfortunately, this did not materialise and a series of violent incidents occurred at or near the barricades.

Now, Madam, the next paragraph is important because we do not wish to prejudge the result of the judicial review which we are promising and which we have agreed.

The lawyers and police have conflicting versions of what happened. The lawyers claim that the police assault on them was totally unprovoked and excessive to the point of being brutal. They are naturally agitated by the indignity and injuries they have suffered. The police on the other hand claim that they had shown unusual restraint in the face of disorderly conduct and they have acted strictly in the discharge of their painful duties. They admit the use of water cannon, tear gas and lathi charge.

These rival versions only call for a totally impartial and thorough probe. Yesterday afternoon itself I expressed Government's willingness to have an immediate inquiry at whatever level the leaders of the Bar want. From the public statements that have been made by some political leaders, it includes the distinguished Leader of the Opposition whose statement I read this morning, as well as leaders of the Bar, an inquiry by a sitting Judge of the Supreme Court would be most suitable. The Government has no objection to this provided the Hon. Chief Justice of India can provide one of his colleagues for this probe. I immediately intend to approach the hon. the Chief Justice to lend the services of one of his distinguished judges and I hope the Commission will be constitute very promptly.

The probe will be greatly facilitated as the Media have taken pictures of major incidents and Police too have videotaped the procession from the beginning to end.

Government welcomes the effort of all political and other leaders, including Law Officers of the Government who have called on the injured lawyers in hospital and extended to them assurance of justice, punishment of the guilty and compensation for the innocent sufferers.

I have appealed to lawyers to start a fruitful dialogue. I have repeatedly explained that there is no proposal at present before the Government, even tentative proposal, for unrestricted entry of foreign lawyers into India or for periodic examinations for practising lawyers. The date for notifying the coming into force of the Civil Procedure Code Amendment Act has not been fixed. Government appeals to lawyers to cooperate with Parliament in reducing laws' delays which have brought the legal system into disrepute. Parliament represents the will of the Sovereign people of India. Law and the legal system exist for their good alone. Let us not dwell too much on the past. It is time we concentrate on building a glorious future.

Now let me repeat the last three lines which I have already read.

I am glad to report that responsible representatives of the Bar have met the Prime Minister. I assure the House that I can clearly see the end of the strike and there should be no difficulty. (Interruptions)

AN HON. MEMBER: Madam, who will regret for the eating and meeting!

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Madam, the word used by the hon. Minister is 'unrestricted entry'. (Interruptions) But there is no reciprocal agreement being entered into to permit Indian lawyers to practise in those countries.

SHRI SOMNATH CHATTERJEE (BOLPUR): Now that the Government has decided to have a judicial probe into this matter, I am not going to pre-judge the issue. Naturally, nobody can, and it is not to be allowed.

SHRI RAM JETHMALANI: Thank you, Somnath Ji.

SHRI SOMNATH CHATTERJEE (BOLPUR): That is obvious, I believe. So long as it is a sitting judge of the Supreme Court, I certainly accept it. But the question is, how come the police would behave in a manner unless the Government had shown such attitude which encouraged the police? This is very important. It is a question of approach.

MR. CHAIRMAN: You cannot pre-judge the issue. (Interruptions)

SHRI SOMNATH CHATTERJEE: This is very important. It is a question of attitude.

SHRI RAM JETHMALANI: Madam, I would appeal to all hon. Members not to say anything which has the effect of pre-judging the issue one way or the other and unnecessarily prejudicing one or the other party. It is not fair. (Interruptions)

SHRI SOMNATH CHATTERJEE : I am not pre-judging. The hon. Law Minister has been reported in the Press that in no circumstances the Government will consider the question of applicability of the Civil Procedure Code Amendment Act.

SHRI RAM JETHMALANI: That is not correct.

SHRI SOMNATH CHATTERJEE : That was the report which came out and there was no denial by the Government.

SHRI RAM JETHMALANI: That is not correct. All kinds of reports are floating in the Press.

SHRI SOMNATH CHATTERJEE : But you have never denied it.

SHRI RAM JETHMALANI: I have called for a dialogue from the word go. On the 4th of February, the representatives of the Bar saw me and in every public statement I have said that please come and discuss and call off the strike. (Interruptions) Anyway, let us not fish in troubled waters unnecessarily.

SHRI SOMNATH CHATTERJEE : The Bar Council decided only one-day strike. The Calcutta High Court Bar has been on strike for one whole week. Till today, right from Monday to Friday, there is a strike there. The Bar Council decided the strike yesterday. Then they have decided to continue it today. I do not know what will be their further decision. But on the major issues, the Government seems to say nothing. He says, no date has been fixed. But what are they going to do? Are they going to reconsider this?

Secondly, with regard to the very selective words 'not unrestricted entry', this keeps the whole thing open.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): This is important.

SHRI SOMNATH CHATTERJEE : What sort of restricted entry at all are you thinking of? These are basic issues. (Interruptions) The Government cannot say that they have no mind. (Interruptions)

SHRI RAM JETHMALANI: It is only a working paper which has been prepared by the Law Commission, which will be released to the nation for a debate in the future. I am surprised that this kind of misunderstanding persists in spite of the fact that there is no proposal before the Government.

MR. CHAIRMAN: The Minister has said that it is only a working paper which has been circulated for discussion and opinion.

SHRI SOMNATH CHATTERJEE : The question is, we find that chartered accountancy profession is being opened up, the lawyers' profession is being opened up, every profession in this country is being opened up.

Therefore, why should the people not show concern? If the concern is shown, you are referring to the report of the Law Commission. Is the Government following only the Law Commission in this country? (Interruptions)

SHRI PAWAN KUMAR BANSAL : You are opening it to them. *â€¦ (Interruptions)* Why is it that the Indian lawyers should appear in the examination every five years to appear in the Indian courts whereas the outside lawyers can come at any time.

SHRIMATI GEETA MUKHERJEE (PANSKURA) : Madam, there are three issues involved here. *â€¦ (Interruptions)*

MR. CHAIRMAN : Please let the lady Member speak.

SHRIMATI GEETA MUKHERJEE : The first issue is the lathi charge etc. The second is about entry of foreigners.

SHRI PAWAN KUMAR BANSAL : It is without reciprocal arrangement.

SHRIMATI GEETA MUKHERJEE : Yes. The third one is very important. It is that all the writ petitions have to come to the Supreme Court, which will need a situation where all the people who have to file writ petitions and all that will rush to Delhi. Is it possible? What will all the lawyers outside Delhi do? Therefore, all these three things should be discussed. The Government should clear this about the writ petitions. I want to know what the Government is going to do.

SHRI SOMNATH CHATTERJEE : They are opening up everything – media and lawyers.

MR. CHAIRMAN : Thank God it is not Parliament.

SHRI SOMNATH CHATTERJEE : We do not know! *â€¦ (Interruptions)*

MR. CHAIRMAN : Mr. Minister, would you like to answer them or give an assurance?

...(Interruptions)

SHRI RAM JETHMALANI: Madam, I do not mind doing it since it has been raised from Bengal. I met the lawyers of Calcutta. They met me. I was personally in Calcutta.

SHRI PRIYA RANJAN DASMUNSI : Madam, let him reply together to all the points. *â€¦ (Interruptions)*

SHRI RAM JETHMALANI : I was in Calcutta personally when I discussed it with them and told them that instead of having this one appeal which is consuming 7-8 years of litigation time, it is better that these matters are heard by a Division Bench in the first instance itself. Initially at the admission stage they may be dealt with by a Single Judge and have them finally heard by the Division Bench and then an appeal to the Supreme Court will be there. *â€¦ (Interruptions)* Shri Dasmunsi, please allow me. This is a serious matter which affects all of us.

Every convention that has been held of lawyers and the judges combine on the subject of delay in justice has discussed it and the first proposal that has been made and on which nobody has differed so far is that one appeal, at least, should be abolished out of so many appeals.

This Bill is not the handiwork of this Government. It was recommended by Justice Mallimath Committee, by the Parliamentary Committee, by the Law Ministers' Conference and then the Bill had been introduced in 1997 and passed by the Rajya Sabha when we were not on the scene. The Bill could not be passed in 1997 because of the successive dissolutions of the Lok Sabha. When I became the Law Minister, I took up the thread from where it has been snapped and I moved it in both the Houses of Parliament. Hon. Members of this House were present then. I do not know why Shri Somnath Chatterjee was absent. I expected him to be present if he was that concerned for lawyers. This Bill, after discussion, was passed unanimously by both the Houses and that there was not one voice dissenting it. Even Shri Bansal spoke on it. *â€¦ (Interruptions)*

SHRI PAWAN KUMAR BANSAL : I stick to what I said. My question presently is different, if you permit me to say it. It is the second thing, In am now talking about.

SHRI RAM JETHMALANI : Let us resolve one question. Then we will go to the different thing.

SHRI PAWAN KUMAR BANSAL : What agitates the lawyers today is that you are laying down the condition that they must clear the examination every five years to be prescribed by somebody. *â€¦ (Interruptions)*

SHRI RAM JETHMALANI : Oh, God! I am so sorry. I have repeatedly said for the last two months that there is no such proposal before the Government.

SHRI PAWAN KUMAR BANSAL : Therefore, you could have talked to them. *â€¦ (Interruptions)*

SHRI RAM JETHMALANI : It is only a working paper by the Law Commission for a national debate. If lawyers cannot understand, I am sorry that I cannot help. *â€¦ (Interruptions)*

MR. CHAIRMAN : Now it has been clarified in Parliament.

SHRI PAWAN KUMAR BANSAL : Madam, understandably they are agitated over something. But is lathi charge an answer to that or is water canon an answer to that?

MR. CHAIRMAN : Shri Bansal, they have appointed a Commission to look into the atrocities.

SHRI RAM JETHMALANI : Let a Judge of the Supreme Court decide who is guilty and the guilty will be punished more seriously than you imagine.

SHRI PRIYA RANJAN DASMUNSI : Madam, please allow me. ...*(Interruptions)*

SHRI PAWAN KUMAR BANSAL : I have my views on C.P.C. I do not differ on that. I have tried to convince people more than the hon. Minister has done.

SHRI RAM JETHMALANI : Thank you.

SHRI PAWAN KUMAR BANSAL : As far as the other question is concerned, it certainly agitated the lawyers. You cannot accept the treatment that has been meted out to the lawyers yesterday.

MR. CHAIRMAN: Shri Bansal, that will be looked into by a Supreme Court Judge.

SHRI PRIYA RANJAN DASMUNSI : Madam, I heard the statement of the hon. Minister who is a distinguished member of the Bar. With all the respect that we have for him, the Bar Council of India, the elected apex body of the advocates, went on arguing this matter for the last few months and the officials of the Bar Council of India issued their letter to the Government, to the Members of Parliament, to the political parties some 15 days before, after their meeting which was held in Bhubaneswar saying that they would be going in for strike on these issues. About their apprehensions on the amendment to the C.P.C., the hon. Minister has referred that the notification had not been issued.

The Minister did not clarify in the statement whether he is considering their viewpoints. Secondly, regarding their possible apprehension of the amendment of the Advocates Act, 1961, I sincerely join in this matter sentimentally, Madam, because when I was a student of Law College of Calcutta University, we sat on a hunger strike for a few days in connection with this Act. During those days, I was a student. Now, the Bar Council of India did apprehend – they made a public opinion about it – that the unrestricted entry of the foreign lawyers in the field of their profession would create a situation where legitimately, our lawyers will feel uncomfortable. I want to know from the hon. Minister only one thing. I am not touching the police atrocities of yesterday. You covered it by a Commission of Inquiry. It is very nice. Let us see the fate.

But you said that you had been asking them to come and meet you and that they did not come. I want to know categorically whether you officially invited, before the strike, the Bar Council of India to come to you, to the Law Ministry to discuss their memorandum and you would report them back. Did you officially do it? There is no question of a public appeal. As a distinguished lawyer, when you made an appeal, as a student of law, we went to hear you with respect because you enlightened us on many things. But as a Law Minister, did you communicate officially with the Bar Council of India that their notice of strike related to these matters and you wanted to discuss and dispose of those matters before they went on strike.

SHRI RAM JETHMALANI: The answer is in affirmative. Not only that the members of the Bar Council of India almost habitually and regularly meet me, the Chairman always meets me at Bangalore National Law School where I teach and he comes for the meetings. I go round the country. They met me and fixed up an appointment with me for the 4th of February. On the 4th of February, three distinguished members of the Bar Council of India came to me. I had a discussion with them on all the amendments to the Civil Procedure Code.

Now here, there is a divergence and I do not wish to unnecessarily create a trouble. There is a misunderstanding. I will call it a misunderstanding. My impression was that all the three members went back satisfied with the explanations which I gave them about the nature of the amendments to the Civil Procedure Code. Now they say that they were not satisfied. If they were not satisfied, they would have written to me from 4th of February up to 24th of February at least one letter saying that Shri Jethmalani, we met you but we are not satisfied with what you told us. That is not what has happened.

Now, we have started a dialogue and we will consider this. I beseech of you that let this trouble be over, let the previous wounds get healed. Then, everything will be all right. â€¦*(Interruptions)*

MR. CHAIRMAN : Before we proceed further, I would say that this matter is closed now. Now, the Minister has answered.

Now, we go to Item 6. Shri Narayan Datt Tiwari has to present Report of Public Accounts Committee.

...(Interruptions)

SHRI MADHAVRAO SCINDIA : We would like to know exactly what has happened.

MR. CHAIRMAN: The Minister has gone to the Speaker to find out what is to be done.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI: After some time, the Private Members' Business will begin. So, how do we know? We should know it now. We cannot interrupt Private Members' Business. It is a response of the Government.

...(Interruptions)

MR. CHAIRMAN: The Minister has gone.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : We cannot disturb the Private Members' Business. ...(Interruptions)