

12.28 hrs

INDIAN TELEGRAPH (AMENDMENT) BILL, 2003

Title : Withdrawal of the Indian Telegraph (Amendment) Bill, 2003, moved by Shri Arun Shourie.

MR. SPEAKER: I go to the next item, Item No.21, Shri Arun Shourie.

(Interruptions)

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY AND MINISTER OF DISINVESTMENT (SHRI ARUN SHOURIE): Sir, I beg to move for leave to withdraw a Bill further to amend the Indian Telegraph Act, 1885.

In my statement, which has been circulated, there is just a one small change. In the last line, the third last word is 'Repealed'. It should be 'Replaced'. It has been wrongly typed. . *(Interruptions)*

MR. SPEAKER: Two hon. Members have asked for my permission to speak on this subject. One is Shri Priya Ranjan Dasmunsi and the other is Shri Pawan Kumar Bansal. So, both of them will be allowed to speak. If you want to speak, you can also speak thereafter.

(Interruptions)

MR. SPEAKER: There will be no 'Zero Hour' today.

SHRI ARUN SHOURIE: Then I beg to withdraw the Bill, Sir.

MR. SPEAKER: Before withdrawal, they would like to speak and I have permitted them to speak.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, the legislative procedures of Parliament are very clearly spelt out both in our Rules Book and in the Constitution.

Sir, the Rules Book also is very clear. I refer Page 123 of the Rules Book pertaining to the functions of the Standing Committees. Rule 331E says in Para (b) : the Standing Committee "to examine such Bills pertaining to the concerned Ministries/Departments as are referred to the Committee by the Chairman"

Sir, the Standing Committees are a part of the Parliament. When a Bill is introduced in the House and instantly referred to a Standing Committee, it not only becomes the property of the House, unless it is withdrawn, but also the property of the Standing Committee, unless they submit the Report.

And Article 123 of the Constitution mentions about the power of President to promulgate Ordinances. *(Interruptions)* Article 123 of the Constitution says: "If at any time, except when both Houses of Parliament are in Session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require."

We know it and the President is advised by the Council of Ministers. Sir, my question is this. In spite of the fact that the Bill was introduced in August 2003, referred it to a Standing Committee and the Standing Committee, due on its deliberation, could not yet come to the Parliament to report, the Government failed to advise the President that the Bill, after being introduced, referred to the Standing Committee.

On that failure or ignorance on the part of the Council of Ministers, the President applied his Ordinance power for which we gave our disapproval notice. Now, Mr. Speaker, Sir, the Minister came today to withdraw the Bill only when he was convinced that the parliamentary authority has been undermined by the Council of Ministers while a Bill introduced is already the property in the hand of the Standing Committee with which we function under your wisdom. Therefore, I would urge the Minister to give a categorical assurance on behalf of the Government to fulfil his collective responsibility and accountability to the Parliament under article 74 that in future they should not advise the President, keeping him in dark about the entire propriety right of the Parliament, on any Bill which is under examination of the Standing Committee till it has not reported, and

they should not bring Ordinances in such a manner which is following a wrong route. I demand that assurance from the Minister in this House in order to defend the integrity and propriety rights of the Parliament and the Standing Committee.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Speaker, Sir, this only shows the lackadaisical manner in which the Government functions. As our hon. Member, Shri Priya Ranjan Dasmunsi has just now pointed out, I would only refer to some dates for this. As we know, the Indian Telegraph (Amendment) Bill, which is certainly

sought to serve a very salutary purpose of bringing in the concept of universal service obligation, was introduced on the 4th of August in the last session. That session concluded on 21st of August. During those days, the Government took no step to get that matter listed for discussion. After the session the Lok Sabha adjourned *sine die* and that Bill was referred to the Standing Committee on 15th of September and the time given to the Standing Committee was a very short one.

The Standing Committee had to report to the Parliament by the last day of the first week of this session, meaning thereby that the Report, in any case, would have come to this House after a detailed discussion thereon by the 5th of this month. That was the last day of the first week of this session. Today it is 19th. By this time, we could have discussed the Report of the Standing Committee and passed it. But what this Government does is this. It is because, perhaps, the left hand does not know what the right hand is doing.

MR. SPEAKER: Who is the left hand and who is the right hand?

SHRIMATI RENUKA CHOWDHURY (KHAMMAM): The BJP speaks with a forked tongue.

SHRI PAWAN KUMAR BANSAL : They are the relevant Ministry and the Ministry of Parliamentary Affairs.

Today we have been asked permission to withdraw this Bill. That Ordinance, which was promulgated during the recess of this Parliament, is not again listed for discussion in this House. It is after today, perhaps, on Monday that Bill would be introduced. (*Interruptions*)

MR. SPEAKER: That is what I wanted to know.

SHRI PAWAN KUMAR BANSAL : The amount of legislation that we have before us, Sir, would lead to a situation where that Ordinance would lapse, and again during the recess of this Parliament, another Ordinance would be issued. That is how, this Government functions. (*Interruptions*)

I would only like to say that a mockery is being made of the entire process. The important question that the Committee was addressing itself to was as to the custody of the fund. We are not opposed. We are rather supportive of the fund. But how do you deal with the fund? Whether that becomes part of the Consolidated Fund of India or not was a very important question which you had referred to the Committee to discuss and then report to the Parliament.

Of course, this is repetitive but I am saying this for the sake of adding emphasis. Despite the fact that the matter is before the Committee, it has been withdrawn from there and Parliament is being placed in a situation where the matter would not be discussed again.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, this is another form of making the Legislature a rubber stamp.

The House is seized of the matter. The Standing Committee is a part and parcel of this House. They are already seized of the matter regarding this Bill. It is under consideration in the Committee. When the Standing Committee is seized of the matter, it is *ultra vires* for the Government to issue an Ordinance on the very same subject. They have no right to issue the Ordinance when the House is seized of the matter. When the House is considering the very same Bill and the Committee is collecting evidence to present a Report to the House, where does the Executive get the authority to do this? There is no provision in the Constitution authorising the Government to issue an Ordinance. I cannot understand it. When the matter was referred to the Committee and the House was adjourned without taking a decision on that Bill, the Ordinance has been issued. Here is a case where the House has already taken cognizance of the Bill and is considering it. So, what the Government has done is highly illegal and irregular. I am of the opinion that they have no jurisdiction to issue an Ordinance when the House is considering the Bill and the Standing Committee is seized of the matter.

MR. SPEAKER: You have made your point. Please take your seat now.

SHRI VARKALA RADHAKRISHNAN : The other fact is that as the President has promulgated the Ordinance the Indian Telegraph (Amendment) Bill, 2003 is proposed to be withdrawn. I can understand it if a new Bill is to be introduced to replace the Ordinance but I cannot understand the use of the word 'repeal'. He has used the word, 'repeal'. Who has authorised him to repeal the Ordinance?

MR. SPEAKER: He is going to reply to that. That is what the hon. Minister is going to explain to you.

SHRI VARKALA RADHAKRISHNAN : He has to say that instead of 'repeal' it has to be 'replace'. 'Replace' is the proper word to be used here.

SHRI ARUN SHOURIE: I had anticipated your direction and accepted the word 'replace'. It was inadvertently typed that way.

The position as far as I remember, Shri Bansal, is that it was not that the Bill had not been introduced. It had been listed for discussion in the last Session on five consecutive days but such were the circumstances well known to the House that the Bill could not be taken up for consideration. All of us in this House agree and it has often been said in the Consultative Committee that we want rural telephone to improve swiftly. The *modus* for that, as Shri Paswan knows, is to create a universal service obligation fund. Since April 2002, five per cent of the total adjusted gross revenue is being collected from private operators for rural telephony. To make it operational, a fund has to be created. The expectation was that it would be done earlier. We were asked whether it could be a part of the Bill to amend the 1885 Act. A Bill was introduced and it was listed on five days.

The Standing Committee is strongly urging us to hurry up with this Bill to achieve this objective. It is not at all out of the slightest disregard for the Standing Committee but it is for the furtherance of the objectives of the Standing Committee and in accordance with its admonition to hurry these things up that this has been done. It is because this Bill could not be passed in the last Session even though everybody agrees to it that we requested the President to issue the Ordinance.

Our senior Member is completely right that it is to 'replace' the Ordinance that this Bill is being introduced. The President has given the sanction and as soon as the Speaker lists it, we would introduce the Bill.

SHRI VARKALA RADHAKRISHNAN : What is the word?

SHRI ARUN SHOURIE: It is 'replace'.

SHRI VARKALA RADHAKRISHNAN : So, do you accept it?

SHRI ARUN SHOURIE: Of course, I do accept it. I always accept whatever you say. (*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : That means he has accepted. (*Interruptions*) This is how casually they are moving. It is a very important Bill. (*Interruptions*)

MR. SPEAKER: This is a very serious issue. I had held the meeting on this issue. They are very serious about it.

(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : The meaning of 'repeal' and 'replacement' is entirely different. Now, the word is 'repeal'. They can only move for 'replacement' only. Even without knowing that they are coming and doing like this. (*Interruptions*)

MR. SPEAKER: The Minister and myself, both agree with you.

(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Does he demand that the Minister should be replaced! (*Interruptions*)

MR. SPEAKER: Is that your demand?

(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I will take a course for him as to how things are to be done in matters like this. (*Interruptions*)

SHRI ARUN SHOURIE: I assure the House that I will beautifully attend the course. (*Interruptions*)

MR. SPEAKER: The Minister may move the motion.

SHRI ARUN SHOURIE: I beg to move for leave to withdraw a Bill further to amend the Indian Telegraph Act, 1885.

MR. SPEAKER: The question is:

"That leave be granted to withdraw a Bill further to amend the Indian Telegraph Act, 1885."

The motion was adopted.

SHRI ARUN SHOURIE: I withdraw the Bill.

SHRI RASHID ALVI (AMROHA): Sir, 'Zero Hour' is important. There are so many important issues. (*Interruptions*)

MR. SPEAKER: Now, I go to Item No. 29. मैं समझता हूँ कि ज़ीरो आवर महत्वपूर्ण है इसलिए हम हर दिन ज़ीरो आवर लेने की कोशिस करते हैं। आप सभी जानते हैं कि आज पूरे देश में जिस विाय की चर्चा शुरू है, उसको भी कुछ समय देना है। इस विाय पर चर्चा करना जरूरी है इसलिए ज़ीरो आवर आज हमने सस्पैन्ड किया है और आगे का जो बिज़नेस है, वह नियम 193 के अधीन चर्चा है। हम चर्चा शुरू करते हैं। श्री किरिट सोमैया।

(व्यवधान)

अध्यक्ष महोदय : सोमवार को मैं ज़ीरो आवर लूंगा। आप फिर नोटिस दीजिए, सोमवार को आ जाएगा। सोमवार को नोटिस ज़रूर दें।

(व्यवधान)

कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) : जेपीसी के एक्शन टेकन रिपोर्ट पर 193 में चर्चा होगी। (व्यवधान)

अध्यक्ष महोदय : वह भी होगी। बीएसी में समय डिसाइड होगा।

कुंवर अखिलेश सिंह : आखिर जेपीसी की चर्चा क्यों टल रही है? वह भी महत्वपूर्ण चर्चा थी और कल भी लिस्ट ऑफ बिज़नेस में लगी थी।

अध्यक्ष महोदय : उसको कोई भी टालना नहीं चाहता है। मैंने 1 बजे बीएसी की मीटिंग बुलाई है। उसमें समय तय किया जाएगा।

श्री थावरचन्द महलोत (शाजापुर) : अध्यक्ष महोदय, 377 नहीं हुए तो उनको ले करवा दें।

अध्यक्ष महोदय : चर्चा के बाद ले करवा देंगे।
