

12.44 hrs.

Title: Regarding alleged misuse of POTA, particularly in Uttar Pradesh.

श्री रामजीलाल सुमन (फिरोजाबाद) : अध्यक्ष जी, सदन में हमने पहले भी यह सवाल उठाया था कि पूरे देश में और विशेष रूप से उत्तर प्रदेश में पोटा का बड़े पैमाने पर दुरुपयोग हो रहा है। हमने आपकी मार्फत यह भी प्रार्थना की थी कि लोक सभा में बहुमत के बलबूते पोटा पास हो गया था लेकिन राज्य सभा में पोटा पास नहीं हो पाया। इसलिए सरकार ने संयुक्त अधिवेशन बुलाया था। उसमें विधि मंत्री और माननीय गृह मंत्री जी ने कமிट किया था कि पोटा का दुरुपयोग नहीं होगा। कल राज्य सभा में माननीय गृह मंत्री जी ने जो वक्तव्य दिया है वह अत्यधिक निराशाजनक है। गृह मंत्री जी ने राज्य सभा में कहा है कि उनके पास आधिकारिक तौर पर कोई सूचना नहीं है, कि कहीं पोटा का दुरुपयोग हुआ है। यह राज्य सरकार का मामला है। अध्यक्ष जी, जब इस देश में टाडा के दुरुपयोग की बात हुई, उस समय एक समीक्षा समिति बनी थी। उसमें पाया गया था कि टाडा का दुरुपयोग हुआ है, लिहाजा निर्दोष लोगों को छोड़ने की बात होनी चाहिए और उसका परिणाम भी निकला।

अध्यक्ष महोदय, कल माननीय गृह मंत्री जी ने राज्य सभा में जो बयान दिया कि चाहे मामला उत्तर प्रदेश का हो या किसी और प्रदेश का हो, जहां तक केन्द्रीय सरकार का सवाल है उसने कभी इसका दुरुपयोग नहीं किया है। अध्यक्ष जी, अभी थोड़ी देर पहले पोटा का दुरुपयोग हुआ है।

इसका मतलब यह है कि गृह मंत्री जी एडमिट करते हैं कि उत्तर प्रदेश में पोटा का दुरुपयोग नहीं हो रहा है। हमने निवेदन किया था कि राजा भैया के बूढ़े पिता, श्री उदय प्रताप सिंह, आयु 80 वर्ष और विधायक श्री अक्षय प्रताप सिंह को विद्वेश के कारण पोटा के तहत बन्दी बनाया गया है। श्री अजीत सिंह सदन में उपस्थित हैं, उन्होंने भी पोटा का विरोध किया था। भारतीय जनता पार्टी उत्तर प्रदेश के नेता श्री विनय कटियार, श्री कलराज मिश्र और श्री राजनाथ सिंह पोटा का विरोध करते हैं और मानते हैं कि उत्तर प्रदेश में पोटा का भयंकर रूप से दुरुपयोग हो रहा है और केन्द्रीय सरकार चुपचाप बैठी है, कोई समीक्षा नहीं कर रही है और कहती है कि न्यायालय जो फैसला देगा, उस फैसले को स्वीकार करेंगे। दर्जनों बेगुनाह लोग पोटा के तहत जेल की सलाखों के पीछे डाल दिये गए हैं और उनके खिलाफ कोई आरोप सिद्ध नहीं है।

अध्यक्ष महोदय : मैं यह पूछना चाहता हूँ कि आपको कितना समय और लगेगा।

श्री रामजीलाल सुमन : मैं दो मिनट में अपनी बात समाप्त कर रहा हूँ।

महोदय, कल 21 तारीख को समाजवादी पार्टी और उसके फ्रन्टल संगठन के लोगों ने लखनऊ में पोटा के खिलाफ शांतिपूर्ण प्रदर्शन करने का ऐलान किया है, लेकिन उस पर पाबन्दी लगा दी है। पूरे प्रदेश में गिरफ्तारियां हो रही हैं। समाजवादी पार्टी के विभिन्न नेताओं को गिरफ्तार कर लिया है। राजनीतिक छापे मारे जा रहे हैं। समाजवादी पार्टी के इलाहाबाद के जिला अध्यक्ष, श्री जवाहर सिंह यादव; महामंत्री, श्री के.के. श्रीवास्तव; लखनऊ स.पा. अध्यक्ष, श्री राम स्वरूप यादव; लोहिया वाहिनी प्रदेश अध्यक्ष, श्री ब्रह्मबक्श सिंह गोपाल; जेपी नगर जिला अध्यक्ष, श्री बुद्ध सिंह और उत्तर प्रदेश के अधिवक्ता, श्री जगन्नाथ प्रसाद आदि इसमें शामिल हैं। लोगों को परेशानियां हो रही हैं और हम प्रजातान्त्रिक तरीके से अपनी बात भी नहीं कह सकते हैं। यह अत्यधिक गम्भीर सवाल है और सरकार जानबूझकर पोटा का दुरुपयोग कर रही है। इसके साथ ही मैं कहना चाहता हूँ कि गोधरा कांड में लिप्त 131 लोगों के खिलाफ पोटा लगा, लेकिन गोधरा के बाद जो गुजरात में हुआ, उस कांड में लिप्त कितने लोगों के खिलाफ पोटा लगाया गया? ₹€! (व्यवधान) महोदय, बहुत गम्भीर मामला है, मुझे आपका संरक्षण चाहिए। मेरा निवेदन है कि गृह मंत्री जी को बुलाइए और उनसे पूछा जाए कि पोटा का दुरुपयोग कैसे रोका जा सकता है।

SHRI BASU DEB ACHARIA (BANKURA): Sir, my notice for Adjournment Motion is also there along with that of Shri Ramji Lal Suman. ...*(Interruptions)*

MR. SPEAKER: On the issue of POTA, I have only three notices and I am going to permit those Members.

...*(Interruptions)*

SHRI SOMNATH CHATTERJEE (BOLPUR): Mr. Speaker, Sir, we are constrained to raise this issue because of its gravest importance. What we had said during the discussions has been proved to be correct. Absolutely, our fears have been found to be correct and justified.

When the Bill was piloted in this House, in the other House and also during the Joint Session, categorical assurance was given by the Deputy Prime Minister, who happens to be the Home Minister. We had said then, "You are taking power for yourself and giving power to all the State Governments. How can you assure that there would be no misuse by the State Governments?" Now, he is passing on the buck to the State Governments saying that it is the State Governments which are doing this and, therefore, the Central Government is not responsible. But then, who piloted this Bill? Who introduced this Bill? Who gave the assurance to the Parliament and through the Parliament to the country that there will be no misuse of this law?

Shri Vaiko is under detention. A Member of Parliament for months is languishing in jail without any trial, without any bail application and this House is sitting quiet. We cannot do anything to protect a Member of our House against whom no definite charge has been made. We are against his politics but he has a right to liberty to come here, be present here in the House and take part in the deliberations. How can he lose his right?

As the other hon. Member has said, an MLA has been arrested. An 81 year-old person is arrested. In Jharkhand – it appeared in today's newspapers and I would like the Government to give a direct reply on it - a 12 year-old boy and an 81 year-old man have been arrested; farmers, students and daily wage earners are being arrested under POTA. It has become a normal law. It is being liberally misused in Tamil Nadu.

In Uttar Pradesh, it is being done; in Jharkhand, it is being done; and in Gujarat it has already been done. Are the matters relating to law and order sought to be solved by POTA?...*(Interruptions)*â€!

The Indian Penal Code and Criminal Procedure Code have become irrelevant in this country, and the Constitutional protection has become a matter of charity today.

Sir, we are strongly opposed to this. It has appeared in the press. I would like to know the Government's view on this that anyone caught with the copy of the Communist manifesto or Mao's Red Book becomes a suspicious character and should be detained under POTA! I have the privilege and the pleasure of having both these copies. Then, am I amenable to be arrested under POTA? What is happening?...*(Interruptions)* Is this a civilised country?...*(Interruptions)* Sir, can I not have a copy of the Communist manifesto which is the Charter of people's liberation in this country, in this world!

Sir, I would like to know from the Government...*(Interruptions)* It has been reported today in a well-known newspaper, *The Times of India* that the total number of children arrested under POTA is 10. Ten children have been arrested under POTA!

Sir, we find the Ministers of this Government are meeting Shri Vaiko and expressing sympathy with him. What sort of Government is this? What sort of Ministers are they? They are sticking to the *gaddi* and they cannot protect their fellow Members of Parliament...*(Interruptions)*

Sir, this is a very tragic situation in this country. There is nothing called civil liberty. Some power hungry politicians who are in power somewhere are detaining people and misusing POTA openly. It is a draconian law.

Sir, I call upon this Government to give an explanation and see that all this misuse is curbed.

MR. SPEAKER: Now, Shri Basu Deb Acharia.

...*(Interruptions)*

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, there is no democracy...*(Interruptions)* It is a shame....*(Interruptions)*

SHRI S. JAIPAL REDDY (MIRYALGUDA): Sir, on POTA, we also want to associate.

MR. SPEAKER: Regarding POTA, I have not opened this as a subject of debate. They are the Members who have given notices and I am allowing them to raise it. Please try to understand.

...*(Interruptions)*

SHRI BASU DEB ACHARIA : Sir, this apprehension was expressed by the entire Opposition in this House as well as when the Joint Session of Parliament was held...*(Interruptions)*

MR. SPEAKER: Shri Varkala Radhakrishnan, please take your seat...*(Interruptions)*

SHRI S.S. PALANIMANICKAM (THANJAVUR): Sir, on this issue, I may also be allowed to speak...*(Interruptions)*

SHRI BASU DEB ACHARIA : Sir, this apprehension of misuse of POTA was expressed by the entire Opposition in this House as well as in the Joint Session of Parliament when POTA Bill was piloted.

On umpteen number of times, the Deputy Prime Minister had assured us here and there that the POTA would not be misused. But what he said yesterday in the other House is that 'it is being misused by the State Government; and the Central Government has nothing to do.' He said yesterday on the floor of the other House that: "though it is not a technicality, the fact is that the Central Government's authority and the State Governments' authorities in matters relating to law and order are different. It is a hard Constitutional reality." He had admitted this in the other House.

Sir, it was also expressed by us that the State Governments as well as the Central Government would misuse it.

The misuse of POTA was started in Tamil Nadu. The existing member of this House is still languishing in jail for months together under POTA. It is also being misused in Uttar Pradesh. We have just heard Somnath Da. He had referred to how the Government of Jharkhand had arrested 12 children under POTA.

Sir, the new Chairman of the National Human Rights Commission has also stated that there is no need of such a draconian law to curb terrorism in our country; there are umpteen number of other laws to deal with it.

SHRI SOMNATH CHATTERJEE : It was not he who said it. It was said by the earlier Chairman.

SHRI BASU DEB ACHARIA : The earlier Chairman had also said it. The present Chairman, Justice Anand has also

said it. I have seen his statement yesterday....(Interruptions)

MR. SPEAKER: Please conclude now. I am giving you the last minute today.

SHRI BASU DEB ACHARIA : Sir, there are umpteen numbers of laws which can be utilised to curb terrorism....(Interruptions)

SHRI S.S. PALANIMANICKAM : Sir, I may also be given a chance to speak on this issue. Ours is the affected State.

MR. SPEAKER: You give another notice.

...(Interruptions)

SHRI S.S. PALANIMANICKAM : No, Sir. You have given chance to everybody and you have to give a chance to me too because I am a Member from the affected State. ...(Interruptions)

MR. SPEAKER: I have not given chance to all the Members; I have given chance only to three Members who have given notices.

...(Interruptions)

SHRI S.S. PALANIMANICKAM : You give me a chance to speak only for two minutes. ...(Interruptions)

MR. SPEAKER: In that case, other hon. Members will not get a chance.

...(Interruptions)

SHRI S.S. PALANIMANICKAM: Sir, I want only two minutes. ...(Interruptions)

SHRI BASU DEB ACHARIA : At this hour also, we demand that the provisions of POTA should be reviewed and the Act should be revoked. ...(Interruptions) Sir, POTA should be revoked. This is our experience – it is being blatantly misused by the State Governments. ...(Interruptions)

SHRI TARIT BARAN TOPDAR (BARRACKPORE): This is the experience of the whole country, that all the black laws were finally declared *ultra vires*. ...(Interruptions)

MR. SPEAKER: I have only one issue before me.

...(Interruptions)

श्री रामजीलाल सुमन : अध्यक्ष महोदय, कानून मंत्री यहां बैठे हुये हटैएँ! (व्यवधान)
वे पोटा की बड़ी वकालत कर रहे थेतैएँ! (व्यवधान)

SHRI BASU DEB ACHARIA : Sir, the Law Minister is here; he has to respond; it is a very important question. ...(Interruptions)

MR. SPEAKER: It will open up a debate.

...(Interruptions)

MR. SPEAKER: Please sit down. A number of other hon. Members also have given notices. Please sit down.

...(Interruptions)

MR. SPEAKER: If you want to raise a discussion on POTA, you can raise it any time. But during 'Zero Hour', how can you take the time of the other hon. Members?

...(Interruptions)

MR. SPEAKER: No. I am sorry. This creates indiscipline in this House. I have to permit all the other hon. Members to speak. Please sit down.

...(Interruptions)

MR. SPEAKER: Now, Shri Deve Gowda can make his submission on his notice on 'problems being faced by farmers'.

...(Interruptions)

SHRI BASU DEB ACHARIA : Sir, the Law Minister should respond. ...(*Interruptions*)

MR. SPEAKER: Please sit down. ...(*Interruptions*) Please sit down. I have only two ways, if the House is to function at all. If you do not want the House to function, it is a different thing.

...(*Interruptions*)

MR. SPEAKER: Let me complete now. Please sit down. When I am on my legs, do you not have the discipline to sit down?

I am making the point clear. If the hon. Members want to discuss only one or two issues, during 'Zero Hour', I have no objection. It is for the House to decide. But those hon. Members who have given notices should also get a chance.

...(*Interruptions*)

SHRI S.S. PALANIMANICKAM : Sir, I want to say something on POTA. ...(*Interruptions*)

MR. SPEAKER: Let me complete now. Do you not allow the Chair to complete the statement? You are a disciplined Member; please allow me to complete.

I have received about 28 notices. All the notices are important. If there is a subject which needs a discussion, you can come to the Business Advisory Committee and decide on it. But if every hon. Member wants to break the rules of the House, how the business can be conducted? Please cooperate with me.

A notice to raise an important issue was given by Shri Deve Gowda; I told him that he could raise that issue during 'Zero Hour'. He wanted to give a notice to raise that issue under some other rule. But I said that there was no time and that he could raise it during this time. He adjusted with me.

If POTA is to be discussed for the whole day, I have no objection. But a number of other issues will remain pending. Now, as a courtesy, I will permit only two Members to speak on POTA – Shri Jaipal Reddy and Shri Palanimanickam.

DR. VIJAY KUMAR MALHOTRA : I have also given a notice on this issue.

MR. SPEAKER: Have you given a notice on this issue? I will check it up. So, Dr. Malhotra will also speak on this. Thereafter, if the Government wants to respond, it can respond. Then we will take up the issue, the notice of which was given by Shri Deve Gowda.

...(*Interruptions*)

श्री रघुनाथ झा (गोपालगंज) : अध्यक्ष महोदय, हम चाहते हैं कि पोटा में जिस तरह से लोगों को बंद किया गया है, उसे (व्यवधान)

MR. SPEAKER: This is more than enough. Let the Chair have some discretion. Now, Shri Jaipal Reddy.

SHRI S. JAIPAL REDDY (MIRYALGUDA): Mr. Speaker, Sir, when the Government brought forward the Bill relating to POTA, we did articulate our apprehensions. The Government, in all seriousness, invoked security of the country, the sovereignty of the country and integrity of the country as the grounds for this draconian piece of legislation.

13.00 hrs.

But we said that these objectives, laudable as they were and as they are, would not be served by the means of POTA. Unfortunately, all our fears have been proved true. Various instances have been given. I do not have to refer to those instances. I do not necessarily have to have a very high opinion of Raja Bhैया to say that it might not be a fit case for POTA. One does not have to express opinions of individuals who have been wrongly booked under POTA at all but this particular law, because of its very nature, was liable for monstrous misuse. These are still early days. So many instances have already come to light. Therefore, in view of the fact that apprehensions and reservations are being expressed from all sides of the House, we plead that if the law cannot be ended, it must at least be amended. We must think of serious structural safeguards to prevent misuse. Will the Government respond?

SHRI S.S. PALANIMANICKAM : Thank you for giving me the opportunity to speak. At the time of passing of POTA, on behalf of the DMK Party we expressed our fears that this might be misused by the State Governments because we had the bitter experience of MISA during emergency. At that time the hon. Home Minister, Mr. Advani, assured the House that this would not be misused by anyone. One of the sitting Members of this House, hon. Mr. Vaiko, has been in prison for nearly six months. I would like to know if it is misused by any State Government which is the

forum where one can go for relief.

As quoted by our former Prime Minister, our NDA convenor Shri George Fernandes is here. Before the start of every Session he used to visit the Vellore jail to have discussion with Shri Vaiko. I would like to know whether he was endorsing the arrest of Shri Vaiko by the State Government or he wanted to bring him back from the jail to the House. Through you, Sir, I would like to know it from the Government.

SHRI PRAVIN RASHTRAPAL (PATAN): Let the Government respond. (Interruptions)

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष महोदय, मैं हमारी पार्टी की राय जरूर रखना चाहता हूँ कि पोटा का जो कानून है, यह केवल आतंकवादी, टैरिस्ट्स, क्रॉस बार्डर टैरिज्म इन लोगों के लिए यह कानून बनाया गया है और इसका उपयोग किसी क्रिमिनल के विरुद्ध या किसी और कारण से नहीं होना चाहिए। किसी भी व्यक्ति को केवल इसलिए गिरफ्तार कर लिया जाए कि उसके साथ कोई राजनीतिक प्रतिद्वंद्विता है या कुछ है, पोटा कानून के अंतर्गत इसका कोई विचार नहीं है। (व्यवधान)

श्री रामजीलाल सुमन : घुमाइये मत, उत्तर प्रदेश के बारे में बताइये। (व्यवधान)

श्री सुरेश रामराव जाधव (परमनी) : वाइको के बारे में बताइये, उनके बारे में सैन्ट्रल गवर्नमेंट क्या करने वाली है। (व्यवधान)

डॉ. विजय कुमार मल्होत्रा : मुझे इसके बारे में यह भी कहना था। (व्यवधान) पार्टी की राय में किसी भी व्यक्ति को, जो कानून केवल आतंकवादियों के लिए बनाया गया है, जिसमें विदेशों से आतंकवादियों को मदद मिल रही हो, उनसे पैसा मिल रहा हो, वे हमारे देश को बर्बाद करने में लगे हों, देश में बम फोड़ रहे हो इत्यादि, इत्यादि के लिए यह कानून बनाया था। उसमें यह जरूर है कि पोटा कानून में यह प्रावधान है कि अगर कोई एस.पी. या कोई और इसका मिसयूज करेगा तो उसके लिए दो साल की सजा भी है। इसलिए ऐसे अधिकारियों को ध्यान में रखना चाहिए कि अगर वे ऐसी कोई कार्रवाई करते हैं तो उन्हें कोई सजा भी हो सकती है। परंतु अपोजीशन या कोई और लोग ऐसा कोई मैथड बता सकें कि इसका कोई राज्य सरकार दुरुपयोग न करे तो हमारी राय यह है कि सरकार को उस पर विचार कर लेना चाहिए। (व्यवधान)

श्री रामजीलाल सुमन : यहां कानून मंत्री बैठे हुए हैं। (व्यवधान)

अध्यक्ष महोदय : अभी नहीं, बहुत हो गया, अभी आप बैठिये।

...(व्यवधान)

SHRI BASU DEB ACHARIA : Let the Minister respond on this important issue.... (Interruptions)

MR. SPEAKER: Shri Harin Pathak is the Minister of State in the Ministry of Home Affairs.

...(Interruptions)

डॉ. रघुवंश प्रसाद सिंह : पोटा कानून का सब जगह दुरुपयोग हो रहा है। (व्यवधान)

श्री रघुनाथ झा : मि. वाइको के बारे में भी बतायें, उनके लिए यह क्या करने वाले हैं। (व्यवधान)

अध्यक्ष महोदय : बार-बार ऐसा करना आप लोगों को शोभा नहीं देता, प्लीज बैठिये।

...(व्यवधान)

अध्यक्ष महोदय : यह बात आपको शोभा नहीं देती है, प्लीज बैठिये।

गृह मंत्रालय में राज्य मंत्री तथा कार्मिक, प्रशासनिक सुधार और लोक शिकायत मंत्रालय में राज्यमंत्री

(श्री हरिन पाठक) : अध्यक्ष महोदय, पोटा कानून के अंतर्गत कई राज्यों में गिरफ्तारियां की गई हैं। इस विषय पर संसद में माननीय सदस्यों ने गहरी चिन्ता व्यक्त की है। इस कानून के अंतर्गत राज्यों में गिरफ्तारियां हुई हैं। आप सबकी चिन्ताओं को देखते हुए मैं उन राज्यों के हरेक केस के बारे में डीटेल्ड इनफॉर्मेशन मंगाऊंगा और अगर सदन चाहता है और आपकी अनुमति होगी तो उसको हम यहां चर्चा के लिए रख सकते हैं और उस पर जो भी कार्रवाई कर सकते हैं उस पर भी सदन में चर्चा कर सकते हैं। (व्यवधान)

SHRI SOMNATH CHATTERJEE : Sir, we are walking out in protest. (Interruptions)

13.06 hrs.

(At this stage, Shri Somnath Chatterjee and some other hon. Members left the House.)

SHRI H.D. DEVE GOWDA (KANAKPURA): Sir, you have given me the opportunity to raise the issue of farmers. But unfortunately, on the issue of POTA, the Government stand is crystal clear that they do not want to re-consider or amend or withdraw the POTA which had been passed by the Joint Session. I would also want to protest. Therefore, I am also walking out.

13.07 hrs.

(At this stage, Shri H.D. Deve Gowda left the House.)
