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Title: Withdrawal of the Payment of Gratuity (Amendment), Bill 2007.

MR. SPEAKER: Now, the House will take up the Supplementary Business -- Shri Oscar Fernandes.

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR AND EMPLOYMENT (SHRI OSCAR FERNANDES): Sir, I beg to move for leave to withdraw the Bill further to amend the Payment of Gratuity Act, 1972.

MR. SPEAKER: Yes, Mr. Radhakrishnan, at the introduction stage, you may oppose it. But you are opposing it even at the time of withdrawal.

Motion moved:

"That leave be granted to withdraw the Bill further to amend the Payment of Gratuity Act, 1972 "

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I am extremely sorry to bring it to the notice of this House that this Government has made it a usual practice of encroaching upon the powers of the Legislature. Here is a specific case regarding amendment to the Payment of Gratuity Act, 1972. The provisions of the Act are there.

Now, Article 123 of the Constitution envisages a situation wherein unforeseen circumstances warrant that to meet an emergency situation, Ordinance can be passed. But here is a case relating to the amendment of the existing Act. Not only that, for this purpose, the Bill was introduced in this House in December, 2007, and then, it was referred to the Standing Committee on Labour. The Standing Committee on Labour also submitted its Report in due course, but the Government was sleeping all over. They did not take into consideration the recommendations of the Standing Committee on Labour. The matter was placed before this House. The Report was placed on the Table.

The natural course would have been, without resorting to Article 123, they ought to have brought the Bill here and passed it. But without resorting to the normal course, they resorted to the emergency provision of the Constitution, which is a clear case of misuse.

Sir, this is the not first time, it has happened. I think, Mr. Speaker, you would remember that such a thing has happened earlier also. This is the second time that an Ordinance has been brought. First time, it was relating to some other case. Now, here is a second case. There is a Report of the Standing Committee on Labour and the House is seized of the matter. When the House is in possession of the Bill, the law will not permit them to issue an Ordinance. It is an encroachment upon the powers of the Legislature.

MR. SPEAKER: He is introducing the Bill, now. Next item is about introduction of the Bill.

SHRI VARKALA RADHAKRISHNAN : It has become a casual matter for them. I am very sorry to say that the Constitution is misused, and it is used for supporting the provisions of the Bill to make law. The law should originate in this House and not in the Ministry. The Ordinance originates in the Ministry and not in the House. The minutes should originate in this House. But here, the normal procedure, the normal course provided in the Constitution is being willfully ignored. At a political convenience, they have resorted to the emergency provision of the Constitution, which is very unfortunate.

The hon. Speaker should take a serious note of it and such a procedure should not go on record as a precedent. It should specifically be brought to the notice of the House that such practice would never be resorted to.

With these words, I conclude.

MR. SPEAKER: Mr. Minister, would you like to say something?

SHRI OSCAR FERNANDES: Sir, we are introducing the Bill.

MR. SPEAKER: Are you going to bring in the Ordinance?

SHRI OSCAR FERNANDES: No, Sir.

MR. SPEAKER: The question is:

"That leave be granted to withdraw the Bill further to amend the Payment of Gratuity Act, 1972. "

*The motion was adopted.*

MR. SPEAKER: The Minister may now, withdraw the Bill.

SHRI OSCAR FERNANDES: Sir, I withdraw the Bill.

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