Fourteenth Loksabha

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Participants : Bhardwaj Shri H.R.,Rawat Prof. Rasa Singh,Deo Shri V. Kishore Chandra S.,Radhakrishnan Shri Varkala,Kumar Shri Shailendra,Tripathy Shri Braja Kishore

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Title : Discussion on the motion for consideration of the Contempt of Courts(Amendment) Bill, 2004 (Discussion not concluded).

MR. DEPUTY-SPEAKER: Now, we will take up legislative business, item No. 10. I will request Shri H.R. Bhardwaj to move the Bill for consideration. The Business Advisory Committee has allotted two hours time for the discussion.

THE MINISTER OF LAW & JUSTICE (SHRI H.R. BHARDWAJ): Hon. Deputy-Speaker, Sir, I beg to move:

> "That the Bill further to amend the Contempt of Courts Act, 1971, be taken into consideration."

Sir, as the hon. Members know that the existing provisions of the Contempt of Courts Act, 1971, have been interpreted by various courts and the judicial decisions are to the effect that truth cannot be pleaded as a defence to the charge of contempt of court. Therefore, there was a demand that the existing provisions contained in the Act are not entirely satisfactory. There has been debate as well as there have been articles appearing in various newspapers from eminent jurists demanding that this matter should be reviewed.

I am happy to inform that the previous Government gave this task to the National Commission to Review the Working of the Constitution. That Constitution Review Committee in its Report *inter alia* recommended that in matters of contempt, it shall be open to the court to permit a defence of justification by truth. The Government has been advised that the amendments to the Contempt of Courts Act, 1971, to provide for the above provision would introduce fairness in the procedures and meet the requirement of article 21 of the Constitution. Section 13 of the Contempt of Courts Act, 1971, provides certain circumstances under which

contempt is not punishable. It is, therefore, proposed to substitute the said section by an amendment.

The Bill was referred to the Department-related Standing Committee on Personnel, Public Grievances, Law and Justice and has been examined there. The Committee submitted its Report to both Houses of Parliament on 29th August, 2005. The Government have gone into the Report. The hon. Committee suggested the following amendments to the Bill.

1. To delete the words "in public interest" from clause (b) of the proposed amendment of section 13; and

2. Place the proposed amendment for defence of truth in section 8 of the Contempt of Courts Act, 1971 and not in section 13.

Sir, these two recommendations have been received and thereafter they were examined. As I submitted in my opening remarks, this matter has been examined by Justice Venkatachalaiah Committee appointed by the previous NDA Government. I agree that the issue of contempt of court is a very sensitive matter and that whatever the Committee had recommended, we should go by it. The Government has examined, therefore, these two recommendations and it is of the view that the Bill as introduced on December 1, 2004, by the earlier Government and as suggested by the Review Committee may be accepted for the time being.

In public interest, two things are being done. Earlier, the contemner has no defence of whatsoever in the matter of contempt and truth even could not be said to be a defence. Everybody in this House knows that our culture proclaims: "*Satyameva Jayate*" and there can be no limitation on truth because truth is synonymous to God in our culture. Therefore, it is a good beginning that at least we should allow truth to prevail. Therefore, the very fact that truth will be the defence should be welcomed by the House. I think, this House will support this Bill.

MR. DEPUTY-SPEAKER: Motion moved:

> "That the Bill further to amend the Contempt of Courts Act, 1971, be taken into consideration[R15]."

प्रो. रासा सिंह रावत उपाध्यक्ष महोदय, मैं माननीय मंत्री जी द्वारा प्रस्तुत कन्टैम्प्ट ऑफ कोर्ट्स (अमैंडमैंट) बिल, 2004 का समर्थन करता हूं। वैसे हम सभी जानते हैं कि जब न्यायालय के अंदर कोई अच्छे निर्णय दिए जाते हैं तो लोग उनके आदेशों की पालना नहीं करते। ऐसी स्थिति के अंदर कन्टैम्प्ट ऑफ कोर्ट का केस दायर किया जाता है। वैसे यह बिल बहुत छोटा है

लेकिन बहुत महत्वपूर्ण है। न्यायालय अवमान अधिनियम, 1971 की धारा 13 के स्थान पर निम्नलिखित धारा रखी जाएगी। यह बिल सन् 2003 के अंदर लाया गया था लेकिन उस समय लोक सभा भंग हो गई थी, इसलिए यह पारित नहीं हो सका। उस समय की सरकार ने इस विधेयक को गृह मंत्रालय की स्थायी समिति के पास विचार-विमर्श करने के लिए भेज दिया था। गृह मंत्रालय की स्थायी समिति ने इस पर काफी विचार-विमर्श किया और इसके बाद अपनी कुछ अभिशंसाएं दीं जिनके आधार पर इसे सदन में आना था। परन्तु उस समय तेरहवीं लोक सभा का विघटन हो गया, परिणामस्वरूप सन् 2003 वाला बिल व्यपगत हो गया। अब यह प्रस्ताव उक्त विधेयक प्रकृति की उपांतरणों के साथ पुनः पुरःस्थापित किया जा रहा है। यह पिछली सरकार का बहुत अच्छा प्रयास था। इससे पहले जब संविधान के बारे में विचार करने के लिए कमिशन बनाया गया था। राट्रीय संविधान कार्यकरण पुनर्विलोकन आयोग ने भी इस बारे में विचार करके अन्य बातों के साथ सिफारिश की थी कि कन्टैम्प्ट ऑफ कोर्ट के मामलों में न्यायालयों को इस बात की आजादी होगी कि वह सत्यता द्वारा न्याय के अधिपत्य औचित्य की प्रतिरक्षा के लिए अनुज्ञा दे। भारत सरकार के प्रतीक चिन्ह में भी 'सत्यमेव जयते' - सत्य की जीत होती है, झूठ की नहीं होती - लिखा है। हमारे यहां कहा गया है - न सत्यात् परो धर्म - अर्थात सत्य से बढ़कर और कोई दूसरा धर्म नहीं है। हमारे यहां मानवीय मूल्यों की प्रतिस्थापना की गई हैं, उनके अंदर भी सत्य को श्रेठ स्थान प्रदान किया गया है। इसलिए सत्य का निरंतर प्रभाव बना रहे और उसे प्रभावी ढंग से माना जा सके, इस दृटि से पुराने कानून के अंदर कुछ कमियां रह गई थीं, परिणामस्वरूप धारा 13 का प्रतिस्थापन किया गया है। धारा 13 में जो परि वर्तन किया गया है, आपकी आज्ञा से मैं उसे सदन के सामने प्रस्तुत करना चाहूंगा -

> "कोई न्यायालय इस अधिनियम के अधीन किसी न्यायालय अवमान के लिए दंड तब तक अधिरोपित नहीं करेगा, जब तक उसका यह समाधान नहीं हो जाता कि अवमान ऐसी प्रकृति का है कि वह न्याय के सम्यक् अनुक्रम में पर्याप्त हस्तक्षेप करता है या इसकी प्रवृति पर्याप्त हस्तक्षेप करने की है। "

कई बार छोटी-छोटी बातों को लेकर भी लोग कोर्ट में पहुंच जाते हैं और कम्टैम्प्ट ऑफ कोर्ट का कानून लगाने के लिए केस दायर कर दिया जाता है। लेकिन अब इस पर गंभीरता से विचार-विमर्श होगा और भली प्रकार से देखा जाएगा। किसी के ऊपर तब तक सजा अधिरोपित नहीं होगी जब तक कोर्ट अपने आप संतुट नहीं हो जाता या समाधान नहीं कर लेता कि जो कम्टैम्प्ट लगाया गया है, वह वास्तव में उस नेचर का है या नहीं, जिसके अनुसार वास्तव में न्याय का उल्लंघन हुआ हो, उसका विरोध हुआ हो या न्याय की अवमानना की जा रही हो, उपेक्षा की जा रही हो या न्याय के प्रति उदासीनता बरती जा रही हो। जब तक इस बात की पुटि नहीं होगी और यह पता नहीं लगेगा कि पर्याप्त हस्तक्षेप करने की संभावना है या नहीं, तब तक न्यायालय उसके अंदर हस्तक्षेप नहीं करेगा। इसमें इस बात का प्रावधान किया गया है।

दूसरा, "न्यायालय, न्यायालय अवमान के लिए किसी कार्यवाही में, किसी विधिमान्य प्रतिरक्षा के रूप में सत्यता द्वारा न्यायोचित्य को अनुज्ञात कर सकेगा यदि उसका यह समाधान हो जाता है कि यह लोक हित में है और उक्त प्र

ातिरक्षा का आश्रय लेने के लिए अनुरोध वास्तविक है।"

अगर कोई बात जनहित के अंदर है और जनहित के अंदर कोई सही बात कही गई है, उस सही बात को न्यायालय प्रतिरक्षा के रूप में उस औचित्य के बारे में ज्ञात कर सकेगा और उसकी आज्ञा दे सÉBÉEäMÉÉ[R16]।

इस प्रकार से सत्य की बात को न्यायालय भी प्रमुखता प्रदान करेगा। मैं आशा करता हूं कि इसमें जो हमारे राट्रीय मानवीय मूल्य हैं, जो हमारे गौरव चिह्न में आया है और जिस पर भारतीय संस्कृति हमेशा जोर देती रही है कि सत्य से बढ़कर कोई और चीज नहीं है, उस सत्य की रक्षा करने के लिए, सत्य की समाज में प्रतिठा हमेशी बनी रहे, इस बात को कायम करने के लिए यह संशोधन बिल मूल अवमानना कंटैम्प्ट ऑफ कोट्र्स के अंदर लाया गया है। मैं समझता हू कि इसका हम सबको समर्थन करना चाहिए। निश्चित रूप से आने वाले समय में न्यायालयों के लिए और कंटैम्प्ट ऑफ कोट्र्स के केसेज वगैरह के इस तरह जुड़ने से न्यायालयों को सुविधा रहेगी और जनहित में सत्य बात की प्रमुखता भी बनी रहेगी। इसके साथ-साथ जो लोग तथ्यों को तोड़-मरोड़कर पेश करते हैं या न्यायालय के सामने झूठी गवाहियां देते हैं, उस झूठ का भी पर्दाफाश होगा और सत्य की जीत होगी।

इन्हीं शब्दों के साथ मैं इस संशोधन विधेयक का समर्थन करता हूं। आपने मुझे बोलने का समय दिया, इसके लिए बहुत-बहुत धन्यवाद।

SHRI V. KISHORE CHANDRA S. DEO Mr. Deputy-Speaker, Sir, I rise to support the amendment to the Contempt of Courts Act, 1971. This amendment has been long overdue, in my opinion. In our Constitution, there is a framework which provides for the separation of powers between the three different wings - the Legislature, the Executive and the Judiciary. While this delicate balance has to be maintained, over the last few years, maybe, decades, we have been observing encroachment by one or the other wings for various reasons. Sir, the Contempt of Courts Act, 1971 has severe constraints and restrictions on the people who wants to file the contempt of court case, even if it is based on truths and facts.

The Standing Committee of this House has given a report. Legal luminaries like Justice Venkatachelliah and Justice Krishna Iyer have been a strong votary to an amendment to the Contempt of Courts Act, 1971. I think, very rightly, now the Government has brought in this amendment to ensure that courts also will have to be bound by truths and facts of the case.

In recent times, we have seen a new trend that has crept into the Judiciary. This trend has been termed as `judicial activism'. I am not against `judicial activism'. But there is a very thin line between `judicial activism' and `judicial despotism'. Judicial despotism can be the worst kind of despotism which can unlease on a civil society because there is no accountability. After all, I would like to firmly state that in a democracy, all of us are

accountable to the people, including the Judiciary. So, if the Judiciary oversteps or if there is a situation where they are going against the will of the people or if there are certain facts and truths which warrant a case which involves the contempt of court or where the Judiciary has faulted, I do not see any reason why any private citizen of the country should not be allowed to take this case up or should be hauled up for the contempt of court if they were based on truths and facts. Certain events have taken place at that particular moment of time.

The Standing Committee had recommended that the words `in public interest' should be deleted. I think, the National Commission had recommended that these words should be included in this amendment. I think, very rightly so, after all, whether it is truth or untruth - I mean, truth especially - it should concern `public interest' also, especially, in cases where the courts today are taking upon themselves the job of legislation and execution. I think, when the Standing Committee took into consideration this particular aspect, this term `public interest' probably did not exist[R17].

Today's situation has become very very important. This term "in public interest" has to be a part of this particular amendment. Therefore, I congratulate the Law Minister for having brought this amendment. Though it is a small amendment, yet it will go a long way. This also goes to show that Courts are not above law or above the Constitution. For any misdemeanor or misconduct or for any other reason if the Court violates the mandate of the people or the Constitution, they shall be liable to answer to this entire country for such an act that they may have committed. Therefore, I support this Bill *in toto* and I am sure that this Hose will be unanimous in approving this amendment.

SHRI VARKALA RADHAKRISHNAN Sir, I support the Bill in principle. We have our own experience in this House. We have passed the Right to Information Act. But its implementation is defective in many ways. Now, it has been termed as an asylum for the top retired bureaucrats. The purpose for which this Bill is passed is defeated.

Here also, we are now trying to amend a law which was in India for a very long time. The first Contempt of Court Act came into existence in 1926 during the British rule. At that time, our Constitution was not in existence. We were following the British practice. In 1952,

we passed an amendment to the 1926 Act. We made certain changes as per the provisions contained in the Constitution. That also was not found fully practicable. Then we took a decision to amend the Contempt of Court Act in 1971 as per the recommendations of the Sanyal Commission. The Act of 1971 also did not rise to the occasion.

Now, I will submit about what is the inherent difficulty in the implementation of the Contempt of Court Act. It has given a blanket protection to the judiciary, even curtailing the freedom of speech guaranteed under article 19(1) and 19(2) of the Constitution. That also is being curtailed in the context of the interpretation of the 1971 Contempt of Court Act. It is contradictory. I am not going into the details because it is a laborious task for me. After 1971 also, there has been a public demand not only from the public but even from the Press for an amendment of the Contempt of Court Act. That has not made a fair comment about a particular judgement by a court because any contempt law will be applicable and the person who is focussing his reason in public, will be put to task. This is the position. This is quite untenable in the context of the parliamentary democracy for curtailing the individual rights of the person for criticising certain things, which he believes, to be true. In all cases, we have the facts about the contempt cases. But, unfortunately, we have not provided any defence provision to the Contempt of Court Act. A man who is known to be guilty or accused is not given a right to defend himself by stating that what he says is true[p18].

So, there is no justification for an accused in an offence under the Contempt of Courts Act. This is the position. Even a person who believes that it is true, he will not be able to make use of it as a defence. This is quite alarming and quite extraordinary as well as untenable in the context of Fundamental Rights provided under the Constitution.

We will see that our Constitution had made some provisions regarding establishment of court of records. The contempt of court offences could be tried only by the Supreme Court or by the High Courts. 'Court of records' is a provision under the Constitution. So, the Supreme Court is the supreme authority in dealing with offences of contempt of Supreme Court or the High Courts, as the case may be. This is the position.

In that case, can we make an amendment by an ordinary Statute of this House? The 1971-Act was passed by this House. The Supreme Court as well as the High Courts come under the provisions of the Constitution, as court of records. That being the case, can we meet the situation by merely amending the Statute of this House, because there is a provision is in the Constitution? Would it be possible to amend a law by merely passing a Statute passed by this House?

A National Review Commission was appointed by the Government; the functioning of the Constitution was looked into by them; eminent jurists were members of that Commission. They have strongly recommended that contempt of court will not be safeguarded and will not be protected from the Supreme Court, by merely making an amendment to the Contempt of Courts Act. They have strongly recommended that we must make an amendment to the Constitution itself. That is the clear position stated not by me, but by the Working Committee appointed by the Government which looked into the working of the Constitution. They have recommended that there must be a Constitutional Amendment for this provision.

Suppose we pass this amendment here, it will not stand in judicial scrutiny because the Supreme Court and the High Courts get powers under the provisions of the Constitution. Then, how can we make and how can we restrict their powers by merely passing a Statute here? The only remedy is that we must have a Constitutional Amendment passed by this House as per the provisions contained in the Constitution.

The argument advanced by the Government as well as by the Law Department is that this being a time consuming factor and a laborious task, requiring two-thirds majority and restrictions are there to get such an amendment passed as per the provisions of the Constitution, we will amend the Statute passed by this House. So, the Government came out with a proposal saying that a mere amendment to Section 13 of Contempt of Courts Act would be sufficient. It hopes that the Supreme Court and the High Courts will take a fair attitude in these matters. It presumed that the Supreme Court and High Courts would take a position that an amendment to the Statute will be sufficient. How? It is only a pious hope; we are having a hope in the Judiciary, in fairness, that they would agree that an amendment to the Statute would be sufficient. I do not think, it is possible[R19].

It is a matter concerning their personal interest. Both the Supreme Court and the High Courts are personally interested in this. Allegations may come up and in dealing those matters I do not think they will take a fair stand. It is a pious wish that they will take a stand that statutory amendment will be sufficient. I do not think it is possible. So, the best course left to the Government is to bring a constitutional amendment. Otherwise, it will become a futile exercise. Not only me even the Working Committee, the National Commission working on the Constitution has taken evidence and has come to the definite conclusion that this can be done only through a constitutional amendment. But the Government did not wait for that. It has come up with an amendment to the proviso to Section 13. That is very-very dangerous in many ways.

The Supreme Court, the Bar Association and the BarCouncil of India have also suggested some amendments. Not only that, senior advocates of the Supreme Court of India have come before the Committee and suggested amendments. Now, two things have to be proved first. One is, while giving justification against the allegation he must prove that it is in public interest. The first thing for the defender or the accused will be to prove that he is making his allegations in public interest. That must be proved first. Secondly, he must prove to the satisfaction of the judge that it is made in good faith. These two things have to be proved first by a person making any allegation in a particular case against the Court. He has to prove these to the satisfaction of the particular judge as to why he is making this allegation.

14.58 hrs. (Mr. Speaker *in the Chair*)

He must prove first that he is making the allegation in public interest. The Supreme Court and the Bar Association have said that this will negative the purpose for which this amendment is brought. The Bar Association of Delhi came to the conclusion that it will negative the purpose for which this amendment is brought. So, these two words 'good faith' and 'in public interest' must be deleted. The opinion of the Bar Council of India is to restrict these two things in the proposed amendment; good faith and in public interest. He has to prove the case first and then only he can proceed. He has to prove that he is making allegation in public interest. That is a laborious task for a defender. He is asked to prove his case first that he is making the allegation in public interest. Secondly, he will have to prove that he is making the allegation in good faith, that too to the satisfaction of the hon. judge. Would he decide in his favour? A judge hearing the allegation would direct the accused to prove the case first that it is in public interest. So, this will negative the purpose for which this amendment is brought. I am opposing it because it is curtailing the purpose for which my hon. friend is bringing the amendment. It will not work. So, please delete those two words and give the opportunity to the accused to prove that he is defending his case by justification of truth. That alone is possible[R20].

15.00 hrs.

Not only that, there is an inherent danger that this will be struck down by the Supreme Court on the plea that the Supreme Court and the High Courts are working as Courts of Records. Any amendment to their powers under the provisions of the Constitution will have to be achieved by another constitutional amendment. So, this is the position. Not only that, it

will be better to bring the legislation, namely, Judicial Accountability first. After all, it is the corner stone of Parliamentary democracy. We have not passed that legislation… (*Interruptions*)

MR. SPEAKER: I think, he has concluded as he has taken 15 minutes.

Now the hon. Prime Minister to make the Statement.

15.19 hrs.

MR. SPEAKER: Now, we will take up item no. 10, discussion on Contempt of Courts (Amendment) Bill, 2004.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): I have been dealing with the difficulties involved in getting the Bill passed. Our attempt is to have some kind of judicial accountability. Here, it may be pointed out that the former Chief Justice of Supreme Court himself has said that thirty per cent of the judiciary is corrupt. If this amendment is found to be successful, it will go a long way in dealing with the corruption in the judiciary[r21].

Corrupt practices are prevalent in many ways and that would not be checked and no allegation can be made against any corrupt judge in the present set-up. So, we want to change the situation. As I have already mentioned, judicial accountability is the cornerstone of parliamentary democracy. So far, we have not succeeded in bringing out a legislation for judicial accountability. Of course, for impeachment, there is some provision in the Constitution. We have our bitter experience in Ramaswami's case. But now, we have come to a stage that we must have a definite say in these matters. We must have a statute dealing with judicial accountability. That is one of the cornerstones of our public life. Not only that, legislative accountability also is a matter of concern. We have allegations against some MPs. Even yesterday, in the Supreme Court, it was discussed and the arguments were made for and on behalf of the MPLAD Fund utilization. The conduct of MPs was a matter of discussion before the Supreme Court. It is a matter of shame for me because our conduct is being discussed in the highest judiciary because of these corrupt practices being prevalent in our system. So, we have to pass this Lok Pal Bill. Why are you getting anxious who should be exempted and who should not be? It is a matter of detail. But let us have a law in this matter so that the MPs and MLAs can be accountable for their criminal acts, for their squandering public money. In all these matters, we want a clear-cut policy and a clear-cut stand in the legal

forum. That is why, I am asking for a legislation on legislative accountability also. In that matter, passing of Lok Pal Bill is another platform in our parliamentary democracy. … (*Interruptions*)

MR. SPEAKER: Please conclude.

SHRI VARKALA RADHAKRISHNAN : When we speak of judicial accountability, we must be ready with legislative accountability also. I want to draw the attention of the Government towards these two important issues. We have done a good thing by passing the Right to Information Act. Though there are many defects in the implementation of this Act, it is a good legislation; it is a historic legislation. We should also have a historic legislation in the matter of judicial accountability and the legislative accountability. This Bill is directly connected with judicial accountability. That is why, I am speaking all these things. If we fail in our attempt, that will be a black mark for our judicial accountability statute. Judicial accountability is very much connected with this justification by the Contempt of Courts Act. For these reasons, we must be doubly cautious to see that the Bill is successfully passed and implemented. If it goes, the Supreme Court takes the other view because they have a pious wish that the Supreme Court will be generous and fair enough to see that a mere amendment in section 13 of the Contempt of Courts Bill is enough. If that is the stand, I have no objection. The rest is for the Government.… (*Interruptions*) The Standing Committee did not agree with the Government. We do not agree with the Government. In that case, they would be having a mere amendment to the statute, of the simple statute, that is of Contempt of Courts Act of 1971. You are bringing an amendment, a simple amendment, to section 13 as proviso. Would it be sufficient? If it is sufficient, that is fine. But I apprehend that the Supreme Court will not take such a pious wish because it concerns their conduct and approach.… (*Interruptions*)

MR. SPEAKER: You have been a member of the Committee. You should not have spoken.

SHRI VARKALA RADHAKRISHNAN : This is for the Government to take a decision. The risk is with the Government to take. When these inherent dangers are there, I would request the Government to consider all these aspects and do all that is possible so that judicial accountability is passed without delay. This Bill, even if it goes, judicial accountability act will be there.

With these words, I conclude. I support the Bill.

श्री शैलेन्द्र कुमार अध्यक्ष महोदय, आपने मुझे न्यायालय अवमान (संशोधन) विधेयक, 2004 पर बोलने का मौका दिया, उसके लिये मैं आपका आभार मानता हूं। लोकतंत्र में आस्था का आधार न्यायपालिका है। समाज और देश के अंदर, चाहे वह उच्च वर्ग हो, मध्यम वर्ग हो या निम्न वर्ग हो, हर व्यक्ति चाहता है कि उसे सस्ता, सुलभ और समय के अंदर न्याय ÉÊàÉãÉä[RB22]।

आज इस बिल में यह प्रावधान रखा गया है कि अवमानना की कार्रवाई तभी होनी चाहिए जब कोर्ट के आदेशों का अनुपालन न हो या उसमें कोई बाधा उत्पन्न हो। इस पर विचार करने के लिए हम यह बिल लाए हैं। जहां तक अ वमानना के मामलों की सुनवाई का संबंध है, सभी पक्षों से जो विचार आए हैं, चाहे उच्च न्यायालय से या जो तमाम मुख्य न्यायाधीश रिटायर हुए हैं, उनका कहना है कि इस संबंध में ज्यादातर उच्च न्यायालय या उच्चतम न्यायालय को ही अधिकार होना चाहिए कि वे इस पर विचार करें। साथ ही साथ न्यायपालिका की प्रतिठा भी बची रहे, उस पर कोई आँच न आए, इस पर भी हमें गंभीरता से विचार करना पड़ेगा। वाजपेयी जी की सरकार ने कहा था कि नेशनल ज्यूडीशियल कमीशन बनाएंगे। छः वर्ा बीत गए लेकिन वह कमीशन नहीं बना। समय-समय पर न्यायालयों में भी भ्रटाचार के केस उजागर हुए हैं जिस पर इस सदन में चर्चा हुई थी और सदन इस पर चिन्तित था।

15.26 hrs. (Mr. Deputy-Speaker in the Chair)

जहां तक न्यायालयों में आम नागरिकों तथा प्रशासनिक भ्रटाचार के मामलों को उठाने की बात है, उसके लिए न्यायपालिका कटिबद्ध है। देखा गया है कि न्यायपालिका में ज्यादातर झूठी शिकायतें दर्ज की जाती हैं। इसके अलावा जनहित याचिकाएं भी दायर की जाती हैं। यह अच्छी बात है लेकिन उनके नाम पर तमाम ऐसी शिकायतें मिलीं जिनका जनहित याचिका के नाम पर दुरुपयोग हुआ है। उस पर भी हमें गंभीरता से विचार करना होगा। इधर देखा गया है कि उच्च न्यायालय या उच्चतम न्यायालय तभी बदनाम हुआ है जब हमारी कुछ निचली अदालतों में भ्रटाचार हुआ है और न्यायाधीशों की अक्षमता, अनैतिक आचरण तथा नशाखोरी के कारण उनको ज़बरन सेवानिवृत्त करने के लिए हमारी तमाम राज्य सरकारें मजबूर हुई हैं। उत्तर प्रदेश में 28 न्यायाधीशों को ज़बरन सेवानिवृत्त किया गया। इसी प्रकार से मध्य प्रदेश में भी शिकायतें आई थीं जिसमें 18 जजों के खिलाफ कार्रवाई हुई थी। संसद में समय समय पर उस पर चिन्ता भी व्यक्त की गई थी।

आज हम इस बिल के माध्यम से यही कहना चाहेंगे कि न्यायपालिका को जनता के प्रति जवाबदेह बनाया जाए, यह सुनिश्चित किया जाना चाहिए।

इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूं।

SHRI BRAJA KISHORE TRIPATHY Hon. Deputy-Speaker, Sir, this is a small legislation but this has serious impact all over. The Contempt of Courts (Amendment) Bill, 2004 seeks to further amend the Contempt of Courts Act, 1971. This is intended to make that a contempt is not to be punishable if it is satisfied that it is done in public interest. Further, this is also intended to introduce fairness in the procedure and to meet the requirement of Article 21 of the Constitution.

This is a very sentimental matter. We should consider it in that way. There is separation of powers and jurisdiction of the different wings and institutions of democracy outlined in our Constitution. This is the power of the court to punish. When a court gives some verdict, it is the Executive which is to implement the order of the court because the judiciary has no other wing or no power just to implement the order of the court. So, it is the Executive which has to implement the order of the court. Now, we are encroaching upon the power of the judiciary. We are now minimising the contempt punishment of court. If some executives go against the order of the court, if they fail to implement the order of the court, naturally the court proceeds with contempt proceedings. That is the only power available with the judiciary. Being afraid of it, the Executive is bound to implement the order of the court. Now, we are minimising this thing. So, a serious implication is there. Not only we are encroaching upon the power of the judiciary but also we are giving advantage to those defaulter Executives, who are liable to and who are constitutionally bound to implement the order of the court[R23].

So, now, when we are minimising this thing with this amendment… (*Interruptions*) Sir, I will take one or two minutes.

MR. DEPUTY-SPEAKER: Would you like to finish it in one minute?

SHRI BRAJA KISHORE TRIPATHY : I will take only one or two minutes.

MR. DEPUTY-SPEAKER: No. Now, we will take up Private Members' Legislative Business. You will continue on Monday.