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Title: Regarding admissibility of notice for discussing Civil Nuclear Cooperation Agreement with the USA.

MR. SPEAKER : Hon. Members, S/Shri L.K. Advani, Santosh Gangwar and Ram Gopal Yadav have given identical notices under Rule 184 of the Rules of Procedure and Conduct of Business in Lok Sabha which read as follows :

"That the House having considered the Prime Minister's statement on 13 August, 2007 in respect of the 123 Nuclear Agreement signed with the USA is of the opinion that the Agreement needs to be renegotiated to ensure that the misgivings expressed by Parliament after the U.S. Congress has passed the Hyde Act, and the assurance given by the Prime Minister in response to that debate are fully addressed and India's Independence insofar as its strategic and foreign policy is concerned is scrupulously protected".

A perusal of the content of the Notices shows that the operative part of the Motion is to require the Government to re-negotiate the 123 Nuclear Agreement signed by the Government with the US Government, with the objectives mentioned in the Motion.

According to our Constitution, in the absence of appropriate laws made by the Parliament, the right of the Central Government to enter into Treaties and Agreements with foreign countries in its sovereign power, is unrestricted and any such Treaty or Agreement becomes effective without any intervention by Parliament. It is also well-established that there is no requirement to obtain ratification from Parliament of any Treaty or Agreement for its operation or enforcement. Thus, the Parliament can only discuss any Treaty or Agreement entered into by the Government without affecting its finality or enforceability.

The Motions, as tabled, require the Government to re-negotiate the same with the objectives stated therein. By asking the Government to re-negotiate the Agreement for the purposes mentioned in the Motions, the Motions in effect seek to disapprove the Agreement entered into and to require the Government not to give effect to the Agreement in its present form and contents, which the House has no competence to do and it will clearly amount to the House rejecting the Agreement in its present form. This will amount to, in effect, disapproval of the Agreement already entered into by the Government, which, in my opinion is not within the competence of the House. What cannot be done directly cannot be achieved indirectly.

Thus, after giving my deep consideration, I hold that the notices of Motion as mentioned above are not admissible on the grounds outlined, and are, therefore, rejected.

The hon. Prime Minister has made a Statement in the House on 13 August 2007 on the Indo-US Nuclear Agreement, and the House has no doubt the right to discuss the same. There are instances where such Agreements were discussed by this House. There has been no occasion where any Treaty or Agreement was ever discussed under Rule 184.

S/Shri Gurudas Dasgupta, Rupchand Pal, Ramjilal Suman, Rajiv Ranjan Singh 'Lalan', C.K. Chandrappan, and Prabodh Panda have submitted notices under Rule 193 of the Rules of Procedure and Conduct of Business in Lok Sabha, and I have admitted the same, which will be taken up as per the existing procedure. As has been agreed at the Meeting of the Business Advisory Committee (BAC), subject to the availability of the hon. Prime Minister, the discussion will take place on Monday, 20 August 2007 in the following form:

"That this House do consider the Statement made by the Prime Minister on 13 August in the House regarding Indo-US Nuclear deal."

PROF. VIJAY KUMAR MALHOTRA (SOUTH DELHI): Sir, we have already agreed to discuss the issue of farmers on 20th August.
...(Interruptions)

MR. SPEAKER: We shall fix up the date for the discussion. I think the Leader of Opposition will begin the discussion.

...(Interruptions)

MR. SPEAKER: I will call the Leader of the Opposition to speak on the other issue after these Papers are laid.

Item No. 8, Secretary-General.

12.06 hrs.

