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Title: Withdrawal of the Forward Contracts (Regulation) Amendment Bill, 2006.

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND MINISTER OF STATE IN THE MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (DR. AKHILESH PRASAD SINGH): I beg to move for leave to withdraw a Bill further to amend the Forward Contracts (Regulation) Act, 1952.

MR. SPEAKER : Motion moved:

"That leave be granted to withdraw a Bill further to amend the Forward Contracts (Regulation) Act, 1952."

Shri Varkala Radhakrishnan, what is your objection to this?

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): In the statement given by the hon. Minister, it is stated that 'in view of the above, the Forward Contracts (Regulation) Ordinance, 2008 was promulgated with effect from 31st January 2008, on the lines of the Forward Contract (Regulation) Amendment Bill, 2006. This is my objection.

Sir, normally, I speak extempore. But today, I would read out my objection.

MR. SPEAKER: How many pages you are going to read?

SHRI VARKALA RADHAKRISHNAN : I am giving my objection, under rule 72. I am questioning and challenging the legislative competence.

MR. SPEAKER: Legislative competence of what? Is it of withdrawal?

SHRI VARKALA RADHAKRISHNAN : It is about our legislative competence as well as the Government's competence to withdraw. That is also a motion.

MR. SPEAKER: How many pages you are going to read?

SHRI VARKALA RADHAKRISHNAN : I am going to read out only two or three sentences. Do not be in a hurry; I am raising only valid points, and only very constitutional points.

MR. SPEAKER: I am in a great hurry to bring you here and keep you sit here!

SHRI VARKALA RADHAKRISHNAN : I am getting old.

MR. SPEAKER: No. No. Everyone is.

SHRI VARKALA RADHAKRISHNAN : It may be pointed out that the Forward Contract (Regulation) Amendment Bill, 2006 was introduced in the Lok Sabha on 21.3.2006. It was referred to the Parliamentary Standing Committee. The House is in possession of the Bill. The Standing Committee, after taking evidence, submitted its report on 19.12.2006. It is stated after examining the recommendations, the Government issued an ordinance. It may be pointed out that the Ordinance 2008 was promulgated with effect from 31st January 2008 on the lines of the Forward Contract (Regulation) Amendment Bill, 2006. They would also admit that there is a Bill in the House. The Bill is in possession of the House. When the Bill is in possession of the House, they have issued an Ordinance. [\[MSOffice12\]](#)

It is equivalent to issuing an Ordinance when the House is in Session. There is a clear position in the Statute that no Ordinance can be issued when the House is in Session. Here is a case that the House is in possession of a particular Bill, that too an amendment Bill. When the House is in possession of a particular Bill, the Government has no right to withdraw without a withdrawal motion. This ought to have been done earlier. By moving a withdrawal motion here and getting the approval of the House they can issue an Ordinance. Here is a case where the Bill is under the consideration of the House. The House has not taken a decision. Only a report was submitted. During the pendency of the Bill in the House they have no right to issue an Ordinance on the very same topic. Here they have done it. That is equivalent to the issuance of an Ordinance when the House is in Session. It is a clear violation of article 123. They have no right to do that.

An emergency can be considered when there is unforeseen and unexpected situation requiring the Government to take some

immediate action. Here is a case when there is no such unexpected, unforeseen situation arisen. Even if there is, there must be a mention in the Statement. Nowhere urgency is given in the Statement. I would have withdrawn all my submission if the Minister had stated that this was the urgency. There is no such thing. The Minister has stated that a new Bill is introduced on the lines a Bill which is under the consideration of this House. I would read the last paragraph:

"The emergency provision in the Constitution is meant to meet an immediate situation, unexpected and unforeseen when the House is not in Session. The Statement did not mention any word why the Government resorted to the emergency provision in the Constitution."

It appears as a case of misuse of the provision. We are kept in the darkness. This case has been construed as an encroachment on the legislative powers of this House.

Secondly, the Bill introduced through a Motion and referred to the Standing Committee cannot be withdrawn *suo motu* by the Government. A withdrawal motion ought to have been brought here and the Government must have got the approval of the House. Only after getting the approval on the withdrawal motion they can issue Ordinance. That was not done. They must formally move the Motion of Withdrawal and get the approval of the House. Without resorting to such a procedure the Government cannot presume it as a withdrawal and promulgate an Ordinance in a casual manner. I would now read my last paragraph:

"An Ordinance cannot be issued when the House is in possession of an Amendment Bill on the same topic. Government cannot presume withdrawal *suo motu* and issue Ordinance in its place. "

The Government has withdrawn it *suo motu* and issued an Ordinance *w.e.f* 31st January of this year. I have every reason to object the procedure as the Government is doing all these matters without observing the constitutional propriety and that the Bill should originate in the House and not in the Ministry. These matters may be discussed. I request, Sir, that we must strictly obey the constitutional provisions. Our Constitution is very clear. When the House is seized of a matter, they have no right to issue an Ordinance. This is my objection. I challenge the Government, what right it has to issue an Ordinance when the House is in possession of the Bill.

MR. SPEAKER: I have to give a decision. Mr. Minister, do you wish to say anything on this or leave it to me.

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND MINISTER OF STATE IN THE MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (DR. AKHILESH PRASAD SINGH): I leave it to you, Sir.

MR. SPEAKER: Thank you. I think all your objections are very strong observations, as I could understand, relating to the issuance of Ordinance. But the hon. Minister is only guilty of asking for leave to withdraw a particular Bill and nothing to do with the issuance of an Ordinance now. Therefore, I think you better reserve your objections for some other appropriate occasion. It does not arise now.[\[R13\]](#)

The question is:

"That leave be granted to withdraw a Bill further to amend the Forward Contracts (Regulation) Act, 1952."

The motion was adopted.

DR. AKHILESH PRASAD SINGH: Sir, I withdraw the Bill.

...(Interruptions)

MR. SPEAKER: Your objection is valid but not appropriate now.