

**14.14 hrs.**

*The Lok Sabha re-assembled after Lunch at Fourteen Minutes  
past Fourteen of the Clock.*

(Mr. Deputy-Speaker in the Chair)

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SURESH PACHAURI): Hon. Deputy-Speaker, Sir, I have a request to make. You may kindly take up the Special Tribunals (Supplementary Provisions) Repeal Bill, 2004, if the House agrees.

MR. DEPUTY-SPEAKER: The hon. Minister has to go to the Rajya Sabha. If the House agrees, we can take up item No. 12 before taking up Matters Under Rule 377. I think, since this is a repeal Bill, it would not take much time.

SEVERAL HON. MEMBERS: Yes.

**14.15 hrs.**

**SPECIAL TRIBUNALS (SUPPLEMENTARY PROVISIONS)  
REPEAL BILL, 2004**

Title: Discussion on the Special Tribunals (Supplementary Provisions) Repeal Bill, 2004. (Bill passed)

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SURESH PACHAURI): Sir, I beg to move:

" That the Bill to repeal the Special Tribunals (Supplementary Provisions) Act, 1946, be taken into consideration."

The Special Tribunals (Supplementary Provisions) Act, 1946, was enacted to make certain provisions in relation to sentences and orders passed by Special Tribunals on such Tribunals ceasing to function. No special Tribunal, as constituted, is in existence now. Moreover, orders and sentences passed by these Tribunals have already been acted upon. The Special Tribunal (Supplementary Provisions) Act, 1946 has accordingly become obsolete.

The Commission on Review of Administrative Laws, constituted by the Central Government in May, 1998, has already recommended repeal of the Special Tribunals (Supplementary Provisions) Act, 1946.

I, therefore, request that the Bill may be taken into consideration by the House and be passed.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill to repeal the Special Tribunals (Supplementary  
Provisions) Act, 1946, be taken into consideration. "

Shri Varkala Radhakrishnan, do you want to speak?

...(Interruptions)

**प्रो. विजय कुमार मल्होत्रा :** उपाध्यक्ष महोदय, यह रिपील बिल है, इसे पास कर दीजिए। हमें इस पर कोई आपत्ति नहीं है। लेकिन हम फिर से रिपीट करना चाहते हैं कि आखिर सरकार के पास कोई बिजनेस क्यों नहीं है। यह सत्र क्यों बुलाया गया है। इतने दिन से आज तक आपने देखा कि सरकार के पास कोई लेजिस्लेटिव बिजनेस नहीं है। आज एक रिपील बिल है, मंत्री जी कह रहे हैं कि उन्हें जल्दी जाना है, इसलिए इसे पास कर दीजिए और हम इसे पास कर देंगे। यह दो मिनट में खत्म हो जायेगा। लेकिन इसके बाद कोई बिजनेस नहीं है। आज केवल एक डिस्कशन हो रहा है तथा उसके पहले केवल दो सदस्यों के कालिंग अटेंशन हैं और उसके बाद एक डिस्कशन है। परंतु लेजिस्लेटिव बिजनेस क्या है। जो इतने महत्वपूर्ण लेजिस्लेशंस हैं, खास तौर पर रोजगार गारंटी का मामला है, लोकपाल बिल है, पेटेंट बिल है। ये सभी महत्वपूर्ण बिल्स हैं। मैं जानना चाहता हूँ कि सरकार के पास जो चालीस बिल्स थे, वे कहां हैं। मैं इस पर बहुत स्ट्रोंगली प्रोटेस्ट करना चाहता हूँ। सरकार ने बहुत ही गलत तरीका अख्तियार किया है। हम इस पर स्ट्रोंगली प्रोटेस्ट करते हैं।

**श्री संतोष गंगवार (बरेली) :** उपाध्यक्ष महोदय, मैं मंत्री जी की इस बात से सहमत हूँ कि यह रिपील बिल है, इसे जल्दी पास करना चाहिए। हमें इस पर कुछ नहीं कहना है। लेकिन मेरा निवेदन यह है कि आज से पचास वाँ पहले के ऐसे बहुत से बिल हैं जो रिपील होने चाहिए। मैं चाहता हूँ कि अगर एक बार कंसोलिडेट करके आप इन्हें कर लें तो एक बार में ही सारे रिपील बिल पारित हो जाएं और यह ज्यादा उचित रहेगा। क्योंकि वाँ 1998 से यह रिपील बिल पेंडिंग है, इसलिए इस बिल को रिपील किया जाए। मेरा कहना है कि जैसा मंत्री जी कह रहे हैं, इसे आप पास कर दीजिए। लेकिन साथ ही मंत्री जी को निर्देश दें कि ऐसे रिपील बिल्स जिनकी संख्या 10-20 नहीं है, बल्कि 50 के आसपास है, इन सभी बिल्स को एक बार में ही पास कर लें।

**श्री मोहन सिंह (देवरिया) :** उपाध्यक्ष महोदय, पचौरी साहब ने जो रिपील बिल पेश किया है, हम उसका समर्थन करते हैं। लेकिन मैं एक आग्रह करना चाहता हूँ कि भारत सरकार ने ही श्री पी.सी.जैन कमीशन इस बात की छानबीन करने के लिए नियुक्त किया था कि पिछले पचास वाँ में ऐसे कौन से कानून हैं, जो इस संसद द्वारा बनाये गये, लेकिन व्यवहार में उनका उपयोग आज की तारीख में बिल्कुल नहीं है। उस कमीशन ने काफी मेहनत करने के बाद 146 कानूनों के बारे में एक फाइनिंग दी थी कि ये वस्तुतः अमल में नहीं हैं और ये केवल कानून की किताब की शोभा बढ़ा रहे हैं। माननीय मंत्री जी के लिए यह सुनहरा अवसर था, जबकि सरकार के पास संसद में अपना कोई व्यवहार नहीं है तो कम से कम इस शीतकालीन सत्र में ऐसे सभी कानून जिन्हें रिपील करने के बारे में श्री पी.सी.जैन ने अपनी संस्तुति दी है। वे इन सभी को एक साथ रिपील करने के बारे में विधेयक लाते और इन सभी गैर जरूर कानूनों को यह संसद रद्द कर देती, उनका अस्तित्व समाप्त कर देती। मैं माननीय मंत्री जी से आग्रह करना चाहूंगा कि अभी दो दिन पहले माननीय वित्त मंत्री जी दो विधेयक लाये थे और अब माननीय पचौरी साहब यह विधेयक लाये हैं। हम माननीय पचौरी साहब से कहना चाहते हैं कि एक-एक, दो-दो विधेयक लाने से काम नहीं चलेगा। आप पी.सी.जैन कमीशन की संस्तुति के अनुसार जितने भी कानून इन्होंने रिडन्डेंट किये हैं, उन सभी कानूनों को समाप्त करने के लिए एक विधेयक सदन के सामने लायें।

**SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL) :** Sir, I have a submission. I want to speak on the Special Tribunals (Supplementary Provisions) Repeal Bill. ...*(Interruptions)*

After all, it has become a nominal thing. This is quite unfortunate. An Ordinance was issued in 1943 preventing corruption from public service. The intention of the present Bill is to remove it from the Statute Book. Of course, we could remove it from the Statute Book. But what is the result? The corruption in public service is still widespread. We can easily remove the Act of 1946 from the Statute Book. That is very easy. But are we able to remove corruption from the public service and public life.

The British people brought the Ordinance in 1943 with a view to prevent the corruption from public service.

Subsequently an Act was passed in 1946 concerning the establishment of Tribunals to try the offences of corruption. This Act has been there for a long time though it was enacted in 1946. We are now in the year 2004. Our attempt now is to remove that particular statute from the state book. But by removing that statute from the statute book, would we be able to achieve our objectives? We are here as Members of Parliament and we are trying to remove a statute which is redundant, from the statute book, but with what result? The result is that corruption in public service and in public life also is on the increase. It is widespread. Now, there is no sphere of activity without corruption. There is no sphere of activity among public servants without corruption. The entire public service is corrupt.

After the enactment of this Act in 1946, of course, it is correct that we do not have a Tribunal now. We want to delete it from the statute book. But by deleting it from the statute book, would we be able to achieve anything? Would

we be able to remove at least five per cent corruption from public life? No. It is on the increase. While replying to the debate, the hon. Minister should explain as to why this has happened.

There is the Prevention of Corruption Act. By that Act we are doing something; but it is of no use. Corruption is always on the increase and it is widespread. Every activity of human life is corrupt at the present state. It is an irony of fate that we can remove the statute from the statute book but the corruption in public life is very very lamentable and a very very sorry state of affairs in our democratic country.

I support this because there is no other go. ...*(Interruptions)*

MR. DEPUTY-SPEAKER : Hon. Minister will now reply.

**श्रीमती किरण माहेश्वरी (उदयपुर)** : आपकी आज्ञा से मैं भी एक बात रखना चाहती हूँ।

**उपाध्यक्ष महोदय** : पहले जब मैंने पूछा था, तब आपने नहीं कहा।

**श्रीमती किरण माहेश्वरी** : उपाध्यक्ष जी, मंत्री जी ने जो बिल रखा है, उसका हम समर्थन करते हैं। आपके माध्यम से मैं उनसे कहना चाहती हूँ कि महिला आरक्षण बिल लोक सभा में जल्दी से जल्दी रखने की कृपा करें ताकि उस पर भी जल्दी से जल्दी डिसकशन हो सके। जो इतने सारे बिल पैन्डिंग हैं, उनमें महिला आरक्षण बिल का विशेष रूप से ध्यान रखा जाए।

**SHRI K.S. RAO (ELURU)**: Sir, I definitely support the hon. Minister for bringing this repeal Bill because it outlived its utility. There is no doubt about it. We are all in favour of it. But he says that the reason for repealing this is, most of the provisions are made in the Prevention of Corruption Act empowering both the State and Central Governments to utilise the powers given there and it serves the same purpose of this Act.

Unfortunately, as the hon. Member Shri Varkala Radhakrishnan has said, corruption has gone so deep into the society, more particularly in the public servants that the dimensions could not be imagined possibly when the Act was made in 1946 by those great leaders in whose mind only sacrifice was there and nothing else. Today, we the lawmakers, should not be contented only by making a law. We are not seeing whether it is being effectively implemented or not. If it is really implemented with even the provisions made in the Prevention of Corruption Act, 1988, I want to know as to how many such officers who are known to many people that they are rampantly corrupt are punished. Even the provisions of this Act are not sufficient.

My request to the hon. Minister, while supporting this Bill, is that he must go through the Prevention of Corruption Act, 1988 where it says that if the punishment given by the special judge exceeds 15 days' imprisonment or a fine of Rs. 2,000 then the public servant can go to the court. That means it can prolong for years together. This punishment of 15 days' imprisonment or penalty of Rs. 2,000 is no punishment at all. The magnitude of corruption is so much that it is unimaginable. If this were to be treated in these light terms, then we can never control corruption in this country.

Sir, everybody knows that corruption is the root cause of entire evils of this country. It is not capitalism or communalism, or the other policies followed by BJP, Congress, CPI(M) or anything else; it is only corruption.  
...(Interruptions)

**SHRI VARKALA RADHAKRISHNAN** : You can delete it from the Statute Book, but you can never delete it from the country. ...(Interruptions)

MR. DEPUTY-SPEAKER: Shri Varkala Radhakrishnan, address the Chair and not the individual.

**SHRI K.S. RAO** : Sir, I request the hon. Minister to come with amendments in a better manner to see that all those well-placed citizens, good servants who are earning substantially, having no comparison with the poor people in the country, are punished. If they are not punished, how can we control corruption in this country? So, I request the hon. Minister to come with some amendments in the Prevention of Corruption Act, 1988 so that this can be controlled and at least, some disincentives will be there to these people. If some officers were given imprisonment for seven years, as it has been provided, they will not repeat it. They will feel change. So, I want him to make that provision in that Act.

**SHRI SURESH PACHAURI**: Hon. Deputy-Speaker, Sir, some points have been raised by the hon. Members. One is in relation to the Commission which has recommended to repeal some of the Acts which have become obsolete. Hon. Member Shri Mohan Singh has raised this point. I would like to point out over here that there was a Commission to review administrative laws, which gave the recommendations in 1998 and also recommended to repeal over 1,300 Central Acts. I would like to mention it over here, Sir, that these Acts are belonging to the various Ministries. ...(Interruptions) Sir, I am coming to his point also.

MR. DEPUTY-SPEAKER: Shri Varkala Radhakrishnan, do not interrupt when the Minister is replying.

**SHRI SURESH PACHAURI**: Sir, with your kind permission, let me react one by one to the points raised. I am reacting to the point raised by Shri Mohan Singh. Thereafter, I will come to his point also.

As I mentioned, these Acts belong to various Ministries. These Ministries have examined whether the recommendations of this Commission can be implemented or not. After examination by the concerned Ministries, these Ministries used to take the decision. That is the position.

As far as the point raised by hon. Shri Varkala Radhakrishnan is concerned, he has rightly pointed out that this Special Tribunals Act was constituted under Criminal Law Amendment Ordinance, 1943 which is said to have repealed the Repealing and Amendment Act, 1957. It may be noted that the Ordinance was promulgated in 1943, that is, before the Constitution of India came into force.

SHRI VARKALA RADHAKRISHNAN : The Ordinance was of 1943 and this Act is of 1946.

MR. DEPUTY-SPEAKER: Shri Varkala Radhakrishnan, you are a very senior Member and you are disturbing him.

SHRI SURESH PACHAURI: Sir, it was promulgated in 1943, before Independence of our country. At that time, there was a power to enact laws through Ordinance. On coming into force of the Constitution, all laws in existence unless otherwise amended or repealed were saved by Article 372 of the Constitution of India. That is why, the Ordinance survived till it was repealed in 1957 by an Act of Parliament.

As far as the point raised by hon. colleague, Shri K.S. Rao is concerned, I think that seems to be a valid point "what would be the provision for ensuring speedy and effective punishment for the erring public servants?" Sir, the offences punishable by these tribunals are punishable under the Prevention of Corruption Act, 1988, which he has rightly pointed. Section 3 thereof empowers the Central Government and the State Governments to appoint as many Special Judges as necessary to try offences punishable under Prevention of Corruption Act, 1988.

Sir, I will certainly keep all those points that he mentioned, namely, to take some precautions, etc. in my mind while giving final shape in this regard.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill to repeal the Special Tribunals (Supplementary Provision) Act, 1946, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clause 1, the Enacting Formula, and the Long Title were added to the Bill.*

SHRI SURESH PACHAURI: Sir, I beg to move :

"That the Bill be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed."

*The motion was adopted.*

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