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Title: The Minister of Finance made a statement on the issues relating to setting up of a Lok Pal.

THE MINISTER OF FINANCE (SHRI PRANAB MUKHERJEE): Madam Speaker, I rise to make a statement on issues relating to setting up of Lokpal on which a debate has been going on within the House and outside the House.

At the outset, even taking the risk of repetition, I would like to once again request Shri Anna Hazare to end his fast in view of the appeal made by the hon. Prime Minister in his statement and the sentiments expressed by the hon. Leader of the Opposition and by the hon. Speaker of this August House on 25th August, 2011.

Madam Speaker, I seek your indulgence to recount the sequence of events which brought us to where we are today.

On 5th of April, 2011, Shri Anna Hazare went on an indefinite fast. Of course, oral correspondence between the Government representatives and his representatives took place and ultimately on 8th April, 2011, the Government constituted a Joint Drafting Committee (JDC) consisting of five nominees of Shri Anna Hazare including himself and five nominee-Ministers appointed by the Government to prepare a draft of the Lokpal Bill. Shri Hazare ended his fast on 9th April, 2011.

The Joint Drafting Committee met nine times during April-June 2011. In the first meeting of the Joint Drafting Committee on 16th April 2011, preliminary discussions were held to draft the legislation for the Lokpal. During the second meeting of the Committee, 40 Basic Principles and the Statement of Objects and Reasons were circulated by Shri Anna Hazare's team which formed the basis of discussions in subsequent meetings of the Committee. There were extensive deliberations on these basic principles' wherein the scope and vision of the proposed Lokpal were discussed. Out of the 40 Basic Principles, we had agreement on 20 issues; we had agreement with some editorial changes on seven issues; on seven issues, we had agreement in principle subject to further discussions. That takes into account 20+7+7 = 34. There were divergences of views between the representatives of the Government and the representatives of the Civil Society on the vision and scope of the Lokpal on six major issues. I would like to explain these six major issues.

Should one single Act be provided for both the Lokpal in the Centre and Lokayukt in the States? Would the State Governments be willing to accept a draft provision for the Lokayukt on the same lines as that of the Lokpal?

Should the Prime Minister be brought within the purview of the Lokpal? If the answer is in the affirmative, should there be a qualified inclusion?

The third issue was: Should judges of the Supreme Court and High Court be brought within the purview of the Lokpal?

The fourth issue was: Should the conduct of the Members of Parliament inside Parliament (speaking and voting in the House) be brought within the purview of the Lokpal? This protection to Lok Sabha Members, Members of Parliament is provided under Article 105, Clause 2 of the Constitution.

The fifth issue was: Whether Articles 311 and 320 (3) (c) of the Constitution notwithstanding members of a civil service of the Union or an All-India Service or a civil service of a State or a person holding a civil post under the Union or State, be subject to enquiry and disciplinary action including dismissal/removal by the Lokpal/Lokayukta, as the case may be.

The last point was: What should be the definition of the Lokpal, and should it itself exercise quasi-judicial powers also or delegate these powers to its subordinate officers? Because, it was agreed that the Lokpal would be a totally independent organisation, it would have its own set up, officers will be appointed by the Lokpal and the expenditure of the Lokpal will not be voted by the Parliament. It will be charged as the amounts spent by the Supreme Court are charged, not voted by Parliament.

On 31st May 2011, I wrote to the Presidents of various political parties and the Chief Ministers of States soliciting their views on these six contentious issues. Responses were received from 25 Chief Ministers and six Party Presidents and leaders. I would like to give some extracts from these letters because all these letters are in the domain of the public knowledge. It is on the website of the Ministry of Personnel and Public Grievances.

The BJP President, in his letter dated 2nd June 2011 stated, I am quoting a few lines:

"Expecting political parties to give their views to a drafting committee comprising of Civil Society representatives for acceptance or otherwise would be upsetting the constitutional propriety where parties,

parliamentarians and the Parliament have the last word. They are the decision makers and not suggestion givers. "

The General Secretary of CPI stated that "as a political party, they will most certainly state their views and suggestions during the discussions on the Bill within the Parliament."

The President of the BSP expressed her inability to respond to the issues raised as no BSP representative had been included in the discussions of the JDC. She also stated that in parliamentary democracy, the Bill has to be examined by the Parliament and the Standing Committee where detailed discussions are held.

The General Secretary of Samajwadi Party in his letter stated that Government was holding a direct discussion with the so called representatives of the Civil Society in the JDC. On the other hand, leaders of the political parties have been sent a questionnaire. This was not acceptable to the Samajwadi Party and hence they will not send any reply.

The Joint Drafting Committee concluded its deliberations on 21st June 2011 and both sides exchanged their drafts for the Lokpal Bill. Both these drafts were forwarded to the Government for further action.

To solicit the views of various political parties, an all party meeting was convened on 3rd July 2011. In course of discussions, the representatives of various political parties emphasized that can be summed it up as:

- The supremacy of the Constitution of India has to be maintained. Institutions of democracy cannot be undermined and the checks and balances visualized in the Constitution cannot be adversely affected.
- Laws have to be made by the Parliamentarians who are elected representatives of the country. A few nominated members of the Drafting Committee cannot have precedence over elected Members of Parliament.

On the conclusion of this meeting, it was unanimously resolved that "Government should bring before the next session of Parliament a strong and effective Lokpal Bill, following the established procedures". We did exactly the same – following the established procedures – brought the Bill and introduced it on 4th August 2011. Whether it is strong or effective is a matter of judgment; we will decide about it.

This meeting was followed informally by a round of informal consultations by some of my colleagues including myself with not all, but some political leaders and their inputs were also incorporated in the Bill which has been introduced in the House.

In pursuance of the decisions of the All Party Meeting, the Government worked on the draft Lokpal Bill prepared by the Joint Drafting Committee and after following the formal process of inter-ministerial consultations and Cabinet approval, the Bill was introduced in Parliament on 4th August 2011.

Unfortunately, even before the Bill could be introduced in the Parliament, Shri Anna Hazare's representatives restarted the agitation by burning copies of the draft Lokpal Bill. Shri Hazare also declared that if the Jan Lokpal Bill is not passed by the Parliament by 15th August 2011, he would proceed on indefinite fast with effect from 16th August 2011.

The Prime Minister through his Independence Day Address on 15th August, again implored Shri Hazare to abstain from the fast. However, this appeal was ignored.

On 16th August 2011, Shri Anna Hazare has again proceeded on fast. In view of his deteriorating health and Government's increasing concern for Annaji's condition, Prime Minister wrote a letter to him on 23rd August 2011, making a fervent appeal for ending the fast.

To carry the negotiations forward, the Prime Minister directed me and Shri Salman Khursheed to hold discussions with the representatives of Shri Anna Hazare. A meeting was held on 23rd August 2011 and it was clarified to Shri Anna Hazare's representatives that the Lokpal Bill is now before the Standing Committee.

All options are open before the Standing Committee to consider not only the Bill introduced by the Government but the Jan Lokpal Bill as well as other versions sent by eminent members of the Civil Society.

In deference to the wish expressed by Annaji, the Government is prepared to request the Speaker, Lok Sabha to formally refer the Jan Lokpal Bill to the Standing Committee for their consideration along with other proposals before the Standing Committee.

About time and speed, the Government can formally request the Standing Committee to try, subject to its convenience, fast tracking their deliberations to the extent feasible.

I explained to Annaji's representatives that Lokpal Bill alone cannot root out corruption. We need multi-layered laws to deal with corruption at various levels. In addition to the Lokpal Bill, we are willing to strengthen the Judicial Accountability Bill

and the Whistle Blowers Bill and the inputs of Shri Anna Hazare and his associates will be taken into consideration. We are also working on a Grievance Redressal Bill to tackle corruption at local level.

I again requested Annaji's representatives to convey our earnest request to him to end the fast and give us the space to proceed in the matter.

At this stage, Annaji's representatives made the following demands, and I quote:

"If the Government can agree to introduce Jan Lokpal Bill - I am exactly quoting without any editorial comments, because I got this on a piece of paper written by themselves - (after removing those items on which we have differences) after clearing by the Law Ministry within four days and also provide a commitment that the Bill will not be referred to the Standing Committee and will be discussed and passed (with minor amendments adopted by Parliament) during this Session of Parliament (even if it is extended), we can then hopefully persuade Annaji to stop this fast. (Above to be a written commitment with timelines). "

The meeting ended around 10.15 in the night, maybe this side or that side a little bit. I told them that it would not be possible for me to make any commitment right now. I shall have to consult the Prime Minister. I requested the Prime Minister. He was kind enough to call the CCPA meeting at 11 in the night. In the CCPA meeting, it was discussed and ultimately, the decision was taken, and I was entrusted to communicate this decision to them in the next meeting.

Apart from these issues, three other issues were also brought up by Annaji's representatives in that meeting, which I would discuss in a little greater detail later here I am just mentioning these issues - 1. Public Grievances and Citizen Charter; 2. Lokayukta; and 3. Lower bureaucracy.

Their demand was that these substantive issues be the part of the Jan Lokpal Bill. Thereafter, the next day, all-Party meeting was scheduled to be held in the afternoon, 3.30 or so, I decided that I will report these to the representatives of the all-Party meeting, which I did.

For the information of hon. Members, I am just reproducing the Resolution which was adopted in the All Party Meeting. It says:

"This meeting of all political parties in Parliament requests Shri Anna Hazare to end his fast. The meeting was also of the view that due consideration should be given to the Jan Lokpal Bill so that the Final Draft of the Lokpal Bill provides for a strong and effective Lokpal which is supported by a broad national consensus. "

This was the unanimous Resolution passed there. In a late evening meeting held with Annaji's representatives on 24th August 2011, the same day, I conveyed the inability of the Government to accept the conditions put forward by them on 23rd August 2011 and referred to by me earlier.

The Prime Minister made a statement in this House on 25th August 2011 reiterating our Government's commitment to the passage of a strong Lokpal Bill. Prime Minister also stated that he would welcome the Members of this House to discuss the Lokpal Bill before the Standing Committee, the Jan Lokpal Bill as well as other draft Bills and views of members of Civil Society which have been brought to the attention of the Government. I believe that the entire House is committed to the eradication of corruption at all levels. These are extracts from the Prime Minister's statement.

Our Government is committed, therefore, to bring appropriate legislation as well as put in place mechanisms that will reduce discretion and bring transparency in the functioning of public offices as well as take strong measures against those who indulge in corruption. Apart from other issues, the three issues are of much significance because these have been again reiterated by Shri Anna Hazare in his letter to the Prime Minister and which is being widely debated. Here I would like to seek the considered views of this House and, perhaps, after the deliberation is over, at the end of the debate, we can arrive, if possible, at a consensus which will reflect the sense of the House, but that part will come later on. Now I am posing those questions. They are as follows:

- (i) Whether the jurisdiction of the Lokpal should cover all employees of the Central Government?
- (ii) Whether it will be applicable through the institution of the Lok Ayukt in all States?
 - iii) Whether the Lokpal should have the power to punish all those who violate the 'grievance redressal mechanism' to be put in place?

The specific issues raised by Shri Anna Hazare are important. They deserve our serious consideration. In case a consensus emerges at the end of the discussions, the Standing Committee will, in the course of their deliberations, take into account their practicability, implementability and constitutionality. We have to keep in mind that everything that we do, must be consistent with the principles enshrined within our Constitutional framework.

Madam Speaker, we are at a crossroad. No doubt, an agitation is going on. All of us want to end this agitation. At the same time, we must remember that all of us have taken an oath, three times in the case of Ministers and two times in the case of Members, while filing nomination, after getting elected and entering into the House. We have taken an oath and the

basic tenet of the oath is that we have to abide by the Constitution and uphold the Constitution. Therefore, whatever we do, we shall have to do it within the framework of the Constitution.

My respectful submission to my colleagues would be: 'give your considered views on these issues which are being raised'. I am told that if these issues are resolved, perhaps it may be, I do not know whether it is sure, possible for Shri Anna Hazare to take a view on it. Therefore, my most respectful submission to my colleagues, on both sides, is that let us have a discussion dispassionately.

We are at a crossroad, if I am not exaggerating then perhaps this is one of the rare occasions when the proceedings of this House is drawing attention of the entire nation and perhaps even outside the nation because the largest functional democracy of the world is at a very crucial stage.

Keeping that in view, my most respectful submission to our colleagues and the House -- of course, this is not a part of my written statement, I may be excused for that, but if you want I can incorporate it and later on authenticate it -- should be to have a dispassionate and objective discussion, try to find out a solution within the constitutional framework, without compromising the parliamentary supremacy in the matter of legislation and at the same time to ensure that we can resolve this impasse.

Thank you, Madam Speaker, for giving me the opportunity.

(Placed in Library, See No. LT 4998/15/11)
