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Title: Shri Yashwant Sinha made objection regarding discussing the motions for modification included at serial nos. 29 and 30 together with the motion under Rule 184 included at serial no. 28.

MADAM SPEAKER: Now, Item Nos.28, 29 and 30 to be discussed together.

...(Interruptions)

SHRI BASU DEB ACHARIA (BANKURA): Madam, I am on a point of order....(Interruptions)

SHRI YASHWANT SINHA (HAZARIBAGH): Madam, I am on a point of order.

MADAM SPEAKER: Under what rule are you raising it?

SHRI YASHWANT SINHA : I am raising it under Rule 234. I have also earlier submitted a statement on this issue in writing.

मैडम, आज की जो कार्यसूची है उसमें आपने आइटम्स 28, 29 और 30 को एक साथ जोड़ दिया है और यह कहा है कि चर्चा तीनों पर एक साथ होगी, उसके बाद 184 का वोटिंग होगा और फिर आइटम 29 और 30 पर वोटिंग होगी। मेरा पहला निवेदन आपसे रूल 234 के तहत यह है कि जो मोशन श्रीमती सुषमा स्वराज और श्री खगेन दास जी मूव करने वाले हैं वह अंडर रूल 184 है। हम सभी जानते हैं कि उसके अंतर्गत जरूरी सार्वजनिक मुद्दों पर आप चर्चा परमिट करते हैं और 184 में फिर वोट होता है। लेकिन 29 और 30 विधायी कार्य हैं इसलिए एफडीआई इन रिटेल को, मल्टीब्रैंड रिटेल को परमिट करने के लिए फेमा का अमेंडमेंट हुआ था और वह नोटिफिकेशन रिजर्व बैंक ऑफ इंडिया ने 19 अक्टूबर 2012 को जारी किया।

जहां तक प्रावधान का सवाल है तो रूल 48 में बिल्कुल स्पष्ट है, जैसे रूल 234 में स्पष्ट है कि इस प्रकार के जो नोटिफिकेशन्स होंगे, रूल एंड रेग्यूलेशन्स होंगे, ये सदन के पटल पर 30 दिनों के लिए रखे जाएंगे और 30 दिनों के बाद ही वे प्रभावी हो सकते हैं उसके पहले नहीं और इस सदन के हर सदस्य का यह मौलिक अधिकार है कि वह इस नोटिफिकेशन पर अपना अमेंडमेंट दे और इसकी अवधि 30 दिनों की है। इसमें अभी तक आपके पास दो अमेंडमेंट आये हैं - एक प्रो. सौगत राय का है और एक श्री हसन खान का है। कार्यसूची में ये दोनों आइटम्स 29 और 30 पर हैं और आपने कहा है कि इस पर चर्चा इकट्ठी होगी।

मेरा आपसे निवेदन है कि ऐसा करना उचित नहीं होगा। दो बातों को मिलाकर यह सदन इकट्ठे वोट नहीं कर सकता है, चर्चा भी नहीं कर सकता है। 'फेमा' के रूल्स के अमेंडमेंट के बारे में, मेरा आपसे निवेदन है कि अलग से चर्चा होनी चाहिए और उसके बाद अलग से 30 दिनों के दरमियान वोटिंग होनी चाहिए। मैं चाहूँ तो मैं 29वें दिन अमेंडमेंट दे सकता हूँ और 30 दिनों का प्रावधान रूल्स बुक में क्यों रखा गया है? 30 दिनों का प्रावधान इसलिए रखा गया कि मैम्बर्स इस पर गंभीरता से विचार करें और विचार करने के बाद अगर उनको लगे कि इसमें उनको संशोधन पेश करना चाहिए तो वे संशोधन पेश कर सकें। अभी अगर किसी माननीय सदस्य ने संशोधन पेश किया भी है तो मेरा आपसे आग्रह होगा कि इनको आप इकट्ठे होने दें और कभी जैसा नियम कहता है, नेता, सदन से विचार-विमर्श करके एक तिथि निर्धारित हो सकती है कि जिस तिथि पर इन सारे अमेंडमेंट्स पर सदन विचार करेगा और तब उसके बाद वोटिंग होगी। नियम यही कहता है, पृष्ठ 675 में कॉल एंड शकथर की इस पर जो टिप्पणी है, उसको भी मैंने कोट किया है और मैंने स्पष्ट भी किया है कि सदन के माननीय सदस्यों के इस 30 दिन के अधिकार को किसी भी परिस्थिति में उनको इस अधिकार से आप वंचित नहीं कर सकते। इसीलिए मेरी आपसे करबद्ध प्रार्थना है कि आप हमारे इस प्वाइंट ऑफ ऑर्डर को स्वीकार कीजिए और आप रूलिंग दीजिए कि इन दोनों संशोधनों पर आज विचार और वोटिंग नहीं होगी, इनको पेंडिंग रखा जाएगा और 30 दिन की अवधि जब समाप्त होने लगेगी तब इन पर विचार किया जाएगा।

दूसरी बात, जो मैंने कही है कि 30 दिनों का प्रावधान है। सदन के पटल पर इस नोटिफिकेशन को दिनांक 30 नवम्बर को ले किया गया था। दिनांक 30 नवम्बर से लेकर 20 दिसम्बर तक यह 30 दिनों की अवधि पूरी नहीं होती है और इसलिए हमारे नियमों में है कि It will be carried forward. यानी यह अगले सत्र में जाएगा। अगर उसमें भी नहीं होगा तो उसके बाद वाले सत्र में जाएगा और यह हो सकता है कि मानसून सत्र तक जाए। इसलिए इस सत्र में न इस पर आप कृपया करके चर्चा कराएं और न इस पर वोटिंग कराएं। अगले बजट सत्र में इस पर और संशोधनों पर विचार करेंगे। हो सकता है कि मैं भी संशोधन दूँ। हो सकता है कि अन्य लोग भी संशोधन दें। उसके बाद नेता, सदन से विचार-विमर्श करके उस पर आप चर्चा कराएं, यह मेरी आपसे प्रार्थना है।

SHRI BASU DEB ACHARIA : Madam, I want to raise a Point of Order under Rule 234 - Rules and regulations to be laid before Parliament. Section 48 of FEMA clearly states that –

"Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no

effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. "

Now, you have admitted a Motion along with Rule 184.

It has also been stated that both the Motion under Rule 184 as well as the Motion for modification of the Notification will be taken up together. Now, every Member of this House has a right to table amendments for the annulment or modification of the Notification and we have 30 days time for this. The Notification has been laid on the Table of the House on the 30th November, 2012. If this Motion for modification is voted along with the Motion under Rule 184, then the Members of this House will lose their right to move amendments and that is not as per the Rules of Procedure.

Madam, I urge upon you that the Motion for the modification of the Notification that you have admitted should not be taken up today, it should be taken up when the other Members will table their amendments or their Motions for modification or annulment of the Notification. You will have to wait up to 30 working days. We can give our amendments even on the 29th day. So, we have enough time. We can give amendments and all these amendments should be taken up together and so the Motion for modification of the Notification should not be taken up today along with the Motion under Rule 184.

MADAM SPEAKER: Mr. Minister, would you like to say something?

THE MINISTER OF URBAN DEVELOPMENT AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI KAMAL NATH): Madam Speaker, 30 days period is the outer limit and some Members have moved a Motion in this regard. I do not know whether any Member who moves it can be denied because it is on the same subject. I think the Rules are very clear and the precedents are very clear that when there is a subject being discussed, obviously one subject is not going to be discussed in three or four forms. So, I think this is perfectly in order and the hon. Members making a point of an outer limit can move it today or any Member who wants to move it is free to move it. ...(*Interruptions*) I do not know why there is confusion in this. I do not know why there is hesitation in this. ...(*Interruptions*) After all, it is a vote and this will also be voted. ...(*Interruptions*) Why are you worried? ...(*Interruptions*)

DR. MURLI MANOHAR JOSHI (VARANASI): No, this is the procedure of the House. ...(*Interruptions*)

MADAM SPEAKER: Nothing is going on record.

(*Interruptions*)* â€¦'

SHRI KAMAL NATH: Madam, I do not know why they are running away from the vote now. ...(*Interruptions*) Please have the vote. ...(*Interruptions*) Then, please have the vote. ...(*Interruptions*)

Madam, they should be welcoming this. ...(*Interruptions*) You wanted the vote and so you should welcome the vote. ...(*Interruptions*)

Madam, I do not know why they are hiding behind the rule to run away from the vote. ...(*Interruptions*) Do not hide behind the rule to run away from the vote. ...(*Interruptions*)

डॉ. मुरली मनोहर जोशी : माननीय अध्यक्ष महोदया, संसदीय अधिकारों का हनन नहीं कर सकते हैं। संसदीय कार्यमंत्री को संसद के अधिकारों को हनन करने का अधिकार नहीं दिया जा सकता है। दो सम्मानित सदस्यों ने नियमों का हवाला देते हुए बात कही है, परम्पराओं की बात कही है और बजाय इसके कि संसदीय कार्य मंत्री संसद की परम्पराओं का आदर करें, वह इस प्रकार की बात कर रहे हैं।...(*व्यवधान*)

SHRI GURUDAS DASGUPTA (GHATAL): Madam...(*Interruptions*)

अध्यक्ष महोदया : यह एक्सपंज कर दीजिए।

(*Interruptions*)* â€¦'

SHRI GURUDAS DASGUPTA : Madam, the hon. Minister of Parliamentary Affairs should have the wisdom to really understand that nobody is running away. We are firm on opposition and I am sure that you have been able to manoeuvre the majority. I am sure, with their technology, they have been able to manoeuvre the majority... (*Interruptions*) That is not the point.

Madam, majority or minority is not the issue. My respected friend, Shri Saugata Roy, has done his job, but the issue is that you have to give the Members 30 days' time to make up their mind. It is premature! (*Interruptions*) Minister shouting is not very fine in the House. The point is their decision is premature and since it is premature, it is violative of the rules of the House and also of the advice of Shakhdar. That is why we are objecting.

Nobody is running away from anybody's position. If they can manage the majority, we will fight them elsewhere. They should not worry about that. We are against it. We know how they have manoeuvred the majority... (*Interruptions*)

THE MINISTER OF HOME AFFAIRS (SHRI SUSHILKUMAR SHINDE): Madam Speaker, since last week we have been fighting to discuss this under Rule 184 and everybody was interested that this FDI issue should be discussed in the House so that the country could know whether it is compulsory or whether it is limited to those who have desired to accept it in their States which have ten lakhs or more population. That is very clear.

Now, from both the sides we are agreeing to discuss it under Rule 184. It is very clear. Then the question comes whether it will be voted or not. At the end of the reply the same thing will be done. But one has to understand that Item Nos. 29 and 30 have come and very rightly the hon. Member has said that the Leader of the House should have been consulted.

I attract your attention to Chapter 21st of Subordinate Legislation. In 235, it is stated: "The Speaker shall, in consultation with the Leader of the House, fix a day or day or a part of the day as he may think fit for the consideration and passing of an amendment to such regulation, rule sub-rule, bye-laws, etc. of which notice may be given by the Member". I think this 235 is accordingly and totally satisfied; it should be admitted and discussed today along with discussion under Rule 184... (*Interruptions*)

श्री यशवंत सिन्हा : यह बिल्कुल... (*व्यवधान*) और मैं रीडटेस्ट कर रहा हूँ, जो गुरुदास बाबू ने कहा है। नियम 184 का डिस्कशन हमने डिमांड किया है, वोटिंग हमने डिमांड की है और वोट से कोई भाग नहीं रहा है। दिन के अंत में दूध का दूध और पानी का पानी हो जायेगा, कौन कहां खड़ा है, वह इश्यु नहीं है, इश्यु रूल 234 का है। रूल 234, रूल 48 और फेमा में हमें तीस दिनों का अधिकार है और यह अधिकार आज समाप्त नहीं किया जा सकता। ... (*व्यवधान*) यह अधिकार आज समाप्त नहीं हो सकता है।

MADAM SPEAKER: Can I give the ruling now? Is there anyone else who wants to express any opinion? Or, shall I give the ruling now?

... (*Interruptions*)

SHRI PRABODH PANDA (MIDNAPORE): Madam Speaker, so far as I understand, the statement made by the Leader of the House does not negate the 30 days' provision. So this is our demand; we have the right of 30 days; do not curtail it... (*Interruptions*)

MADAM SPEAKER: Hon. Members, I have heard the objections raised for discussing the motions for modification included at serial Nos. 29 and 30 together with the motion under rule 184 included at serial No. 28. I have also considered the letter received from hon. Member Shri Yashwant Sinha *ji* and I have also heard Shri Basu Deb Acharia *ji* and other hon. Members regarding omission of Item Nos. 29 and 30 of today's List of Business.

In this context, I would like to invite the attention of the House – as you all know and as has already been read out

but I would like to read it again –towards the provision of rule 235. According to this rule, when a notice is given by a Member for modification of a rule or regulation, the Speaker is duty-bound to fix, in consultation with the Leader of the House, a day or days or part of a day for the consideration and passing of an amendment to such rule or regulation.

The precedent cited by Shri Yashwant Sinha *ji* with reference to Practice and Procedure of Parliament – Kaul and Shakdher, Page 675, the laying formula prescribed under Section 28 (2) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 11 (2) of the Salaries and Allowances of Ministers Act, 1952 are different from the laying formula contained under Section 48 of the Foreign Exchange Management Act. The laying formula under Mines and Minerals (Development and Regulation) Act, 1957 and the Salaries and Allowances of Ministers Act, 1952 require previous approval of the Parliament before they come into force whereas the laying formula under section 48 of Foreign Exchange Management Act provides only for modification or amendment which will come into effect only when resolution is passed by both Houses of Parliament.

The statutory period during which a Member can move amendment or modifications is intact. The 30 days' period, you all were concerned about, that remains intact. It is not taken away. It is intact and can be exercised according to section 48 of the Foreign Exchange Management Act. So I want to clarify it again that that period of 30 days remains intact.

So far as seeking amendments or moving modification is concerned, there is nothing in this rule or in the Foreign Exchange Management Act, 1999 which prohibits discussion on a motion for modification of a rule or regulation made under this Act and laid on the Table of the House immediately after it has been laid on the Table of the House.

Since I received notices from Prof. Saugata Roy and Shri Hassan Khan, I felt that it is my duty under rule 235 to consult the Leader of the House on these notices. I have since consulted the Leader of the House. Hon. Minister of Parliamentary Affairs had requested me to allow the discussion on the motions for modification together with the motion under rule 184 in order to save the time of the House.

Hon. Members would appreciate that though the effect of adoption of the motion under rule 184 is different from that of motions for modification at serial Nos. 29 and 30, yet, the subject matter of the motion under rule 184 and the motions for modification of the Notification is same.

Therefore, in order to avoid repetition of debate on this subject, I, in my discretion, decided to allow a combined debate on the three motions listed at serial Nos. 28 to 30. After the combined discussion, the motions will be put to the vote of the House one by one.

Hon. Members, before we take up combined discussion on the motion under rule 184 at serial No. 28 and the motions for modification at serial Nos. 29 and 30 of the Notification issued by the Government under the Foreign Exchange Management Act, 1999, I have to inform the House about the procedure that I propose to follow for disposal of these items.

First of all I will call Shrimati Sushma Swaraj to move the motion at serial No. 28. Thereafter, Prof. Saugata Roy and Shri Hassan Khan would be called to move their respective motions at serial Nos. 29 and 30. After all the hon. Members have moved their motions, Shrimati Sushma Swaraj, Prof. Saugata Roy and Shri Hassan Khan would be called to speak on their motions one by one. After them, the other Members will participate in the debate.

At the conclusion of the debate, after the Minister concerned has replied to the debate and the Movers of the motions have exercised their right to reply, I shall put the motions at serial Nos. 28 to 30 to the vote of the House one by one.

