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Title: Introduction of the Coal Mines (Special Provisions) Bill, 2015.

HON. SPEAKER: Item No. 8 – Shri Piyush Goyal.

THE MINISTER OF STATE OF THE MINISTRY OF POWER, MINISTER OF STATE OF THE MINISTRY OF COAL AND MINISTER OF STATE OF THE MINISTRY OF NEW AND RENEWABLE ENERGY (SHRI PIYUSH GOYAL): Madam Speaker, I beg to move for leave to introduce a Bill to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilization of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto.

HON. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilization of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto. "

Shri Bhartaruhari Mahtab, to raise objection, if any, in the introduction of this Bill.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Madam, I was just going through a news-item today published in *Hindu*, which describes the Nehru-Mavalankar Debate on Ordinances. In this news-item, the letter was written by the first Speaker of Lok Sabha on 25th November, 1950. Mavalankar said:

"The promulgation of Ordinances was inherently undemocratic whether an Ordinance is justifiable or not, the issue of a large number of Ordinances as psychologically a bad effect. The people carry an impression that Government is carried on by Ordinances. "

In his reply, Nehru on December 13, 1950 said:

"I think all of my colleagues will agree with you that the issue of Ordinances is normally not desirable and should be avoided except on special and urgent occasion"

I am quoting him.

"Parliamentary procedure is sufficient to give the fullest opportunities for consideration and debate and to check errors and mistakes creeping in. That is obviously desirable."

Madam, again on 17th July, 1954, Mavalankar wrote to Nehru.

"The issue of an Ordinance is undemocratic and cannot be justified except in case of extreme urgency or emergency." He said, "Unless the Ordinance was limited to "extreme and very urgent" cases, the result may be, in future, the Government may go on issuing Ordinances giving the Lok Sabha no option but to rubberstamp the Ordinances."

Mavalankar's warning is reiterated in the 1986 Supreme Court's judgement in the case of D. C. Wadhawa vs. State of Bihar where it said that the Ordinance *raj* cannot be permitted. I would say that in this case the Constitution Bench led by the then Chief Justice of India, P.N. Bhagwati dealt with the Bihar Government's practice of re-promulgating Ordinances on a massive scale from time to time without their provisions being enacted into Acts of the Legislature.

माननीय अध्यक्ष : आपका ऑब्जैक्शन क्या है, वह बताइए।

SHRI BHARTRUHARI MAHTAB: I have two lines to say here about what the Supreme Court had said.

"The power to promulgate an Ordinance is essentially a power to be used to meet an extra-ordinary situation and it cannot be allowed to be perverted to serve political ends."

This is the pronouncement of the Supreme Court. The Court also held: "It is contrary to all democratic norms that the Executive should have the power to make the law."

Madam, the Coal Mines (Special Provisions) Bill has one provision and that provision deals with clause 7. In clause 7, certain power is being taken up by the Executive, by the Government.

At the outset, I would mention here that we are not opposed to auctioning of coal mines. We want coal mines to be auctioned. We want all

mines to be auctioned. But we are opposed to the manner in which certain subjective decisions are being taken by the Government arbitrarily. Our Chief Minister, Mr. Naveen Patnaik has written a letter to the Prime Minister also, and in that letter he has categorically stated about how they are going to select and how many blocks of a certain States are going to be decided as regulated sector and non-regulated sector. They are not taking any State Governments into confidence. Nobody is taking cognizance. They are not interacting with the State Government. There is a glaring case in case of Odisha. How many blocks are going to be decided? I am not actually debating the issue.

HON. SPEAKER: That is what I am saying. You are only objecting to a particular Section and not the whole introduction of the Bill.

SHRI BHARTRUHARI MAHTAB: That Section says: 'Before notifying the particulars of auction classifying mines identified for Schedule I coal mines as earmarked for the same class of specified end users'. I have to explain that issue.

माननीय अध्यक्ष : यह सब तो आप वार्ता के समय भी कह सकते हैं।

SHRI BHARTRUHARI MAHTAB: The Minister is competent enough to understand.

SHRI TATHAGATA SATPATHY (DHENKANAL): We oppose the introduction of the Bill.

SHRI BHARTRUHARI MAHTAB: Yes.

How do you decide about a regulated mine and a non-regulated mine? Nine blocks have been identified for auction in Odisha. Out of that, only one block is coming under non-regulated sector. The Prime Minister the other day had come out very openly saying that coal mines of about one lakh crore of rupees have been auctioned and we are sending it to the States.

HON. SPEAKER: Mahtab ji, at the time of discussion you can discuss these issues.

...(Interruptions)

SHRI BHARTRUHARI MAHTAB: That is why I am asking why we are opposed to it.

The unregulated sector mine is only one in case of Odisha and the rest is regulated. ...(Interruptions) What is happening is that in unregulated sector – where cement factories are there, steel factories are there, aluminum factories are there – you go as per a gradation. The more the money that auction is accepted. But in regulated sector, for power sector, the less the money is auctioned it is to be given to the bigger. In that respect Odisha is losing thousands of crores of rupees. A large number of mine blocks are being auctioned for power sector. So, this is the Clause which empowers the Government to decide subjectively. You pick and choose from which State you are going to give for power sector and which are the blocks you are going to give to the unregulated sector. This Bill empowers this Government and it goes against the States. That is why we are opposed to this introduction of this Bill.

SHRI TATHAGATA SATPATHY: This is not a cooperative federalism.

HON. SPEAKER: Prof. Saugata Roy – Not present. Now, Mr. Minister.

SHRI PIYUSH GOYAL: Thank you, Madam Speaker. Bhartruhari ji has raised two or three issues, I will address all of them. At the outset, he talked about the ordinances. I am sure he will appreciate the severe crisis and challenge before this Government when the hon. Supreme Court struck down the allocation of 204 coal blocks. Several of them, around 42 of them, were already producing or ready to produce. This Government had the Hobson's choice of letting them stop operation after 31st March. Thousands of people would have been jobless, some of them in his State also. There would have been a severe coal shortage which the country is already plagued off. Therefore, it was necessary to promulgate the Ordinance in the first instance.

The fact that the Bill could not be cleared in the Rajya Sabha because of continuous disruptions is a matter before all the hon. Members. His concerns for the State were also before the Centre and, therefore, the Government chose to promulgate the second Ordinance when it could not be cleared. In a way it also addresses Saugata Roy ji's question.

HON. SPEAKER: Mr. Minister, you only address to the points raised by Shri Mahtab.

SHRI PIYUSH GOYAL: So, when the House was disrupted repeatedly, it was necessary to promulgate the second Ordinance.

Madam Speaker, so far as Section 7 that the hon. Member has raised is concerned, it is a very important provision that is required for the Central Government and none of the actions under Section 7 has been done arbitrarily. Our Technical Committee comprising of inter-Departmental offices including the Department of Steel and DIPP, about which he has raised, has set together and decided it based on a defined criterion. This criterion was also put up before the hon. Court. The High Court is also ceased of this issue, which was agitated before the Court. After listening to all sides, in respect of two mines the hon. Court has certainly suggested that the Technical Committee may reassess it and those two are being reassessed by the Technical Committee. But other than that the hon. Court also appreciated it. This is a necessary provision to ensure that the large amount of shortages of coal in the power sector is quickly met. The power prices are kept at the lowest level possible and are not allowed to go into run away increases. Therefore, these mines have been allocated to the power sector which is a regulated sector and affects 125 crore Indians. To make sure that adequate coal and adequate power is available at affordable price to all the stakes, it was necessary to allocate them based on a defined criterion.

I hope the Member appreciates that his State is going to be a large beneficiary as more and more mines get auctioned and allocated. In the initial period only those mines have been allotted and allocated which have already come into production or are getting ready. I think there are a lot more

mines which will continue to be auctioned where his State will also gain a significant amount of revenue. It is the initial mines which had already opened...(*Interruptions*)

माननीय अध्यक्ष : अभी डिस्कशन नहीं हो रहा है।

SHRI PIYUSH GOYAL: The initial mines had already opened and were in production. It is unfortunate that Odisha did not have mines which were already in production. Therefore, it may seem that his State has got less mines. Going forward, there will be more and more mines coming out, but the technical committee, on defined criteria based on the requirements of different sectors - the regulated and the non-regulated - has done a sincere effort to protect the interest and requirement of all sectors.

If we had only continued with what was done in the past, the allegation would have been that we are a part of the continuing problems or the irregularities which the earlier Supreme Court judgement had struck down.

Thank you.

HON. SPEAKER: The question is:

"That leave be granted to introduce a Bill to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto."

The motion was adopted.

SHRI PIYUSH GOYAL: Madam, I introduce the Bill.