

Title: Introduction of the Urban Land (Ceiling and Regulation) Repeal Bill, 1998. The Motion for leave to introduce the Bill moved by Shri Ram Jethmalani was opposed. Motion for Consideration -adopted.

MR. CHAIRMAN : The House shall take up Item No. 13.

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THE MINISTER OF URBAN AFFAIRS AND EMPLOYMENT (SHRI RAM JETHMALANI): I beg to move for leave to introduce a Bill to repeal the Urban Land (Ceiling and Regulation) Act, 1976.

MR. CHAIRMAN: Motion moved:

"That leave be granted to introduce a Bill to repeal the Urban Land (Ceiling and Regulation) Act, 1976."

SHRI BASU DEB ACHARIA (BANKURA): Sir, I want to oppose the introduction of the Urban Land (Ceiling and Regulation) Repeal Bill, 1998. This is unconstitutional. The Urban Land Ceiling Act was passed in 1976 during the Emergency because at that time, the Central Government had the power to enact laws pertaining to State Governments. In Article 252 of the Constitution, it is stated:

"If it appears to the Legislatures of two or more States to be desirable that any of the matters with respect to which Parliament has no power to make laws for the States except as provided in articles 249 and 250 should be regulated in such States by Parliament by law, and if resolutions to that effect are passed by all the Houses of the Legislatures of those States, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, and any Act so passed shall apply to such States and to any other State by which it is adopted afterwards by resolution passed in that behalf by the House or, where there are two Houses, by each of the Houses of the Legislature of that State."

In Article 251, it is stated:

"Nothing in articles 249 and 250 shall restrict the power of the Legislature of a State to make any law which under this Constitution it has power to make, but if any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament has under either of the said articles power to make..."

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Here this proposal had been pending for the last five or six years. There had been number of conferences of Chief Ministers and of the Ministers of Housing but there was no unanimity. As there was no unanimity in the past, the Urban Land (Ceiling and Regulation) Act could not be repealed.

15.00 hrs.

It has been stated that the public opinion is nearly unanimous. How has the public opinion been sought in regard to this repeal of Urban Land (Ceiling and Regulation) Act? Our experience is that there are lacunae in the Act and because of that, the purpose for which the Urban Land (Ceiling and Regulation) Act was enacted by the Parliament could not be achieved. The Government could not get sufficient land for the construction of houses to provide accommodation to the people. That might be the main reason. But those loopholes and lacunae could be removed without repealing the Urban Land (Ceiling and Regulation) Act.

How the Central Government can ask the State Governments to enact such law when after long persuasion and a number of conferences and meetings, only two Legislatures -- Haryana and Punjab -- passed resolutions

empowering Parliament to repeal the Act in those States? But no other State, has passed such resolutions in regard to the repeal of the Urban Land (Ceiling and Regulation) Act.

Sir, in my opinion, if we pass this legislation, it will be an unconstitutional act and, therefore, Sir, I oppose the introduction of this Bill and I request the hon. Minister of Urban Affairs and Employment to withdraw this legislation and call a meeting of all the political parties to elicit their views and bring a legislation by amending the existing Urban Land (Ceiling and Regulation) Act.

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श्री मोहन सिंह (देवरिया): सभापति महोदय, भारतीय संविधान की धारा २४५ के अन्तर्गत राज्यों को अपने अधिकार क्षेत्र में और संसद को संपूर्ण भारत के अधिकार क्षेत्र में कानून बनाने के अधिकार दिए गए हैं। उसी तरह कुछ परिस्थितियों में जो राज्यों के विषय हैं, उनमें भी संसद को कानून बनाने के अधिकार संधि वधान की धारा १५२ में, २५१ में और २५० में दिए गए हैं। उसके अनुसार यदि भारत की संसद राज्य सभा द्वारा दो-तिहाई बहुमत से कोई प्रस्ताव पारित करे, तो उसके महेनजर या हिन्दुस्तान भर की विधान सभाएं उनमें से दो विधान सभाएं प्रस्ताव पास करें, तो राज्यों की सूची के अंतर्गत सभी विषयों में भारत की संसद कानून बना सकती है। अब यह जो जमीन संबंधी जो कानून हैं वे राज्यों की सूची में आते हैं। जो सूचियां बनी हैं, राज्य की सूची नं.२ के १८ नंबर पर है उसमें लिखा है 'भूमि, अर्थात्, भूमि या उस पर अधिकार जिसके अंतर्गत भूस्वामी और अभिधारी का संबंध और भाटक का संग्रहण, कृषि भूमि का अंतरण और अन्य संक्रमण, भूमि विकास और कृषि सुधार उपनिवेशन' यानी भूमि संबंधी संपूर्ण मामलों में राज्य विधान सभाओं और विधान मंडलों को ही कानून बनाने के अधिकार दिए गए हैं।

श्री मोहन सिंह सभापति महोदय, ऐसी हालत में केन्द्र सरकार कानून तब बना सकती है जब देश की दो विधान सभाएं प्रस्ताव पारित करे। यह कानून जब भारत की संसद में १९७६ में बना, उस समय संसद को इस कानून को पारित करने के लिए हिन्दुस्तान की ११ विधान सभाओं ने, जिनमें आन्ध्र प्रदेश, गुजरात, हरियाणा, हिमाचल प्रदेश, कर्नाटक, महाराष्ट्र, उड़ीसा, पंजाब, त्रिपुरा, उत्तर प्रदेश और पश्चिमी बंगाल की विधान सभाएं शामिल हैं, प्रस्ताव पारित कर के भारत की संसद को इस संबंध में कानून बनाने का अधिकार दिया था। आज मंत्री जी केवल दो राज्यों की विधान सभाओं ने यह प्रस्ताव पास कर आपको अधिकार दिया है इसलिए इस कानून को रिपील करने का एक विधेयक इस सदन के सम्मुख प्रस्तुत कर दिया गया। मैं समझता हूँ कि यह एक विशेष स्थिति है जब कि हिन्दुस्तान की ११ विधान सभाओं द्वारा पारित अधिकार को केवल दो विधान सभाओं द्वारा प्रदत्त अधिकार द्वारा आप ओवर रूल करने का काम कर रहे हैं। यह राज्य सरकारों के अधिकार क्षेत्र में सीधा हस्तक्षेप है। यह मेरी मान्यता है कि संसद इस कानून को पारित नहीं कर सकती।

सभापति महोदय, मैं दूसरी बात यह कहना चाहता हूँ कि अभी विगत दिनों हिन्दुस्तान भर के आवास मंत्रियों का सम्मेलन हुआ। मैं नहीं जानता वह खबर कितनी सही है, लेकिन स्टैटमैन, हिन्दुस्तान का एक प्रमुख अखबार जिसमें यह खबर छपी है कि माननीय आवास मंत्री ने खासतौर पर यह हिदायत दी है कि जिन राज्य सरकारों की ओर से इस कानून का पालन करने में, अमल करने में मदद नहीं मिलेगी, भारत सरकार उस पर सैक्शन लगाएगी। यदि ऐसी बात आवास मंत्री ने कही है, तो यह बड़ी दुर्भाग्यपूर्ण है। क्योंकि राज्य विधान सभाएं या सरकारें प्रजा नहीं हैं और हिन्दुस्तान की सरकार राजा नहीं है। किसी भी केन्द्र सरकार का कोई भी मंत्री हुक्म देकर, आदेश देकर किसी भी राज्य को इस तरह का प्रस्ताव पारित करने के लिए विवश नहीं कर सकता। इसलिए सभापति महोदय, मैं कहना चाहता हूँ कि यह राज्य सरकारों के अधिकार क्षेत्र में हस्तक्षेप है। अभी अनुमति मांगते हुए, माननीय मंत्री महोदय ने कहा कि यह अल्सर है, मैं इसकी मैरिट में नहीं जाना चाहता हूँ। लेकिन मैं कहना चाहता हूँ कि इस प्रकार का कानून बनाकर आप इस देश में एक कैसर का प्रवेश कराना चाहते हैं। यह कानून एंटी-पूअर है, एंटी-प्यूपल है। इस सरकार का यह समाज विरोधी कदम है। इसलिए सरकार के इस बिल को आप सदन में इंट्रोड्यूस करने की अनुमति न दें, ऐसा मेरा आपसे आग्रह है। यह गैर-कानूनी है और असंवैधानिक है।

MR. CHAIRMAN : Shri Radhakrishnan, your notice has been received at 11.30 a.m. As a former Speaker you know the rules. After the Minister's reply is over if you want to speak, you speak. But you know that processing and everything is there. There is a procedure in the House which should be followed.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): After all what I am going to add will only enlighten the Minister. My learned friend also would agree because I will be dealing with some matters of constitutional propriety only. That is all what I have to say.

MR. CHAIRMAN: But your notice has been received at 11.30 a.m. It should have been given by 10 o'clock.

SHRI VARKALA RADHAKRISHNAN : It could not be given because the Speaker was not available.

MR. CHAIRMAN: Otherwise everybody will ask for time. Everybody will oppose the introduction of the Bill at this stage. Even Congress Members were also asking for time. I said no. Please cooperate with the Chair. I am not deviating from the rules.

SHRI VARKALA RADHAKRISHNAN : Constitutional matters must be raised at any time even without notice. Matters involving constitutional propriety can be raised even without a notice. No notice is required.

MR. CHAIRMAN: Who told you?

SHRI VARKALA RADHAKRISHNAN : That is very crystal clear in all Houses. When constitutional propriety is involved, Members are allowed to speak.

MR. CHAIRMAN: The rule says that every Member has to give a notice to the Secretary-General before 10 o'clock.

SHRI VARKALA RADHAKRISHNAN : This is a matter which arose from the discussion.

MR. CHAIRMAN: Please see Rule 72.

SHRI VARKALA RADHAKRISHNAN : I know.

MR. CHAIRMAN: You know everything but still you are asking for time. Please tell me how it is possible. Please do not waste time.

SHRI VARKALA RADHAKRISHNAN : I will take only one minute.

MR. CHAIRMAN: I will not give any time.

SHRI VARKALA RADHAKRISHNAN : Please allow me; I will take only one minute. Please do not create a bad precedent.

MR. CHAIRMAN: Please sit down.

... (Interruptions)

MR. CHAIRMAN: Nothing will go on record except what Shri Ram Jethmalani says.

(Interruptions)*

SHRI RAM JETHMALANI: I will agree to anything that you say. But my respectful submission to you is that kindly hear me for a few minutes. I will answer your doubts. If your doubt still persists, after that ask those questions.

SHRI VARKALA RADHAKRISHNAN : It is enough if I can speak after hearing him. Will you permit me?
(Interruptions)

MR. CHAIRMAN : That is between you and the hon. Minister but please note that I have not given the permission.

SHRI VARKALA RADHAKRISHNAN : You please hear me. I am opposing you only on constitutional propriety.

MR. CHAIRMAN: Shri Radhakrishnan, you are a senior Member and you have been a Speaker. You should understand the position.

SHRI VARKALA RADHAKRISHNAN : On matters of constitutional propriety, all Speakers allow hon. Members to speak.

MR. CHAIRMAN: Already Shri Basu Deb Acharia and Shri Mohan Singh have voiced their objections.

SHRI RAM JETHMALANI : I can assure the hon. Member - I can read his mind - that I know what he is going to say. Kindly hear me for a few minutes. If I do not resolve your doubts, then we will see what to do about it.

* Not recorded

At the moment, we are only seeking leave to introduce the Bill. When the Bill comes up for consideration before this House, all the points which are now being argued can still be raised. I do not doubt the right of any hon. Member to oppose the introduction of a Bill, at the introduction stage. Rule 72 expressly provides for it. But if constitutional validity of the law is being talked about, then, on the contrary, the proper procedure is that it should be considered at the stage when the Bill is really being considered. At this stage, questions of constitutional propriety and validity neither are allowed to be raised nor is it usual to raise them. But since there has been a discussion on the constitutional aspect of it, I do not wish to shirk it.

There seems to be some misunderstanding. The other day when a Resolution moved by one of our hon. Members about the Housing Policy was being debated here this misunderstanding arose. At great length, I explained the constitutional position and I wish to reiterate it here.

Land is a State subject. This Parliament has no power to legislate about land at all. It is totally ultra vires if we ever venture into the field of legislation on land. Our power to legislate on land arises only under article 252. When two or more States ask us to legislate, when two or more States are unanimous about what law they want and they ask the Centre to legislate, we can just do it. But we are doing it more as their surrogates, as their agents. Equally, article 252 (2) provides for repeal of such a law. The repeal can be effected in the same manner in which the original passing of the Act is contemplated by the article. In other words, if two or more States request for the repeal, we are under a moral, political and almost a binding constitutional obligation to restore to the States their freedom of action.

It is true that originally a larger number of States had asked for the enactment of this Bill. Now, it is a lesser number of States which are asking for the repeal. But the Constitution specifically takes care of that situation as well. When we repeal now, the repeal will not become operative in any State which wants the Act to continue. Every State Legislature has now to pass an adoption Act. Those who want to continue with the present law are entitled to continue with the present law by refusing to pass an adoption measure. But those who accept the policy of repeal will have to adopt it and then alone will the repeal become effective in those States. Therefore, today we are really carrying out what I regard as a constitutional obligation. As two States want their freedom, we are bound to restore their freedom, leaving the other States to continue to be bound by the old law. They can also accept the repeal and make another law with their own amendments which they want to be introduced.

Now, the picture that has been presented that only two States have asked for the repeal is also not right. It is very very technically right but in substance it is wrong. It is wrong for this reason. A large number of States which participated in the Ministerial Conferences wanted it and one Ministerial Conference asked for an Expert Committee to go into it.

The Expert Committee suggested some 55 amendments. We have no reason or no constitutional right to amend unless all the 17 States which have originally become parties to the adoption of this Statute are unanimous about the amendments. They are not unanimous now. In fact, to cite an example, the UP Government say that we need not repeal it, but amend it. But we have no power to effect merely amendments in this Act. The amendments will be ultra vires unless all the original 17 States are agreed upon the nature of the amendments.

Therefore, the only proper constitutional course left is that we repeal it and leave each State free to carry out whatever policies it wants to adopt.

My friend now said that it is anti-poor and pro-rich and so on and so forth. I wish to assure this House that the original purpose of the Urban Land Ceiling Act was a sacrosanct purpose. It is a sacred purpose, a purpose which this Government fully shares. I do not want to go into the details now. We are at the introduction stage. At this stage, I do not want to go into the reasons. But the Act has failed its purpose.

Now I want to bring to the attention of this House, two or three important facts. As a matter of fact, this Government is not doing anything new. The previous Government had threadbare considered this kind of a legislation and ultimately, on the 13th of November 1997, the previous Cabinet passed a Resolution that this Act should be repealed. Now I am quite surprised to see the situation.

मुझे कुछ ताज्जुब भी लगता है कि उसी कैबिनेट में मेरे दोस्त श्री राम विलास पासवान और श्री मुलायम सिंह यादव भी थे। आज उन्होंने पब्लिकली एनाउंस कर दिया है कि हम इस बिल का विरोध करेंगे। इस हाउस के अंदर जब सीटिंग अरेंजमेंट बदल जाता है तो उनके दिमाग में कैसे संशोधन आ जाता है, यह बड़े आश्चर्य की बात है। मैं नहीं समझता कि ऐसा क्यों हुआ?

We are carrying out the decision of the previous Cabinet.

श्री मोहन सिंह : सभापति महोदय, कैबिनेट पार्टी नहीं होती। पार्टी स्तर पर हम इसे एक्सप्रेट नहीं करते।

SHRI RAM JETHMALANI: The previous Cabinet has passed this measure.

SHRI P. SHIV SHANKER (TENALI): What is decided by the Cabinet is not informed.

SHRI RAM JETHMALANI: I will tell you that on the 13th of November 1997, they have decided; it was a Cabinet decision.

At least two of today's principal opponents of the Bill are those who are parties to that decision. Now let us forget it. We will be going to the consideration stage. At the consideration stage, we will consider everything. I would assure you that if you permit me to mention (Interruptions)

SHRI VARKALA RADHAKRISHNAN : I want to put a simple question. The Minister has agreed. ... (Interruptions)

MR. CHAIRMAN : No. Please sit down. You are interfering every time.

... (Interruptions)

SHRI VARKALA RADHAKRISHNAN : But he has agreed.

MR. CHAIRMAN: No. Please sit down. I will not give you permission. We will discuss it later.

... (Interruptions)

SHRI VARKALA RADHAKRISHNAN : But he has agreed, Sir. ... (Interruptions)

MR. CHAIRMAN: The Minister would have agreed; but the Chair has not agreed. Please sit down.

... (Interruptions)

SHRI VARKALA RADHAKRISHNAN : I have a doubt, Sir. Will you please clear that doubt? I ask this with the permission of the Chair. By way of a clarification, I want to put this question. ... (Interruptions)

MR. CHAIRMAN: First let him complete.

... (Interruptions)

SHRI RAM JETHMALANI: I remember your doubt. I will not sit down until I clear your doubt.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): My question is very very simple. ... (Interruptions)

MR. CHAIRMAN: If your doubt is not cleared even after the Minister's speech, then you can raise it. Now, you please sit down. The Minister knows your question. You have raised it already on the other day.

... (Interruptions)

SHRI RAM JETHMALANI: Sir, I think, the House will be in peace, if my friend's soul is kept in peace! Let him ask that question, I will answer it. Sir, I will yield for a minute; let him ask that question.

MR. CHAIRMAN: Okay, you may put your question. You should not take more than a minute and it should pertain to this subject.

">SHRI VARKALA RADHAKRISHNAN : The question is very simple. As you know, this House is represented by 25 States and seven Union Territories. Now, let us forget about the present issue. Suppose there is a national question and the Minister at the Centre is not prepared to be concerned about the national consensus, then what will happen?

He has inclined to hear the opinion of only two States and bring in a legislation under Article 252. Simply two States will do for him without obtaining a national consensus. His attempt will create a very bad precedent for the future to bring in a legislation without obtaining a national consensus. And that will go on record. By obtaining the opinion of only two States and without obtaining the national consensus, any Minister can bring a legislation in this House. If it is at least five or six States, I can understand. What is the difficulty?...
(interruptions)

MR. CHAIRMAN : Don't argue with the Minister. You have said whatever you wanted to say.

SHRI VARKALA RADHAKRISHNAN : It will create a very bad precedent in history.

MR. CHAIRMAN: He will explain everything. Please sit down.

SHRI VARKALA RADHAKRISHNAN : Why should he hear the opinion of only two States and bring in a legislation for 25 States? Sir, we believe in democracy. Precedents are as good as law. Do you agree or not? Do you want to create such a precedent where any Minister will bring a legislation to the majority of the States without obtaining a national consensus?

SHRI RAM JETHMALANI: The trouble of the hon. Member is, he thinks that his doubts can never be resolved by anybody. We know it. So, there is no point in introducing heat in this matter. It is a very simple thing. If two States ask for a common legislation, the Centre may well oblige and pass a legislation which will bind only those two States.

SHRI VARKALA RADHAKRISHNAN : How can you bring a legislation without obtaining a national consensus?

SHRI RAM JETHMALANI: There is no question of national consensus because each State is free to go by its own law. Please sit down. If you do not understand, I cannot help it...(interruptions)

MR. CHAIRMAN: Don't argue. Please hear the Minister.

SHRI RAM JETHMALANI: Every State is free to have its own law and every State is free not to adopt the repeal. But we are bound to set those two or three States which have asked for the repeal. That is a constitutional obligation.

Sir, it is said that it is anti-poor. I still wish to maintain that the only method by which we can satisfy the requirements of the poor people of this country for whom this Act has failed to deliver goods is to repeal this Act to proceed in the new economic direction...(interruptions)

SHRI VARKALA RADHAKRISHNAN : A very bad precedent is being created.

SHRI RAM JETHMALANI: I will tell you what has happened. One of the evils of this law has been that the State Governments and some very powerful people of the State Governments have kept exempting land from the operation of this Act and those who have managed to get these exemptions have spent stupendous sums of money. Some people of this country are holding land which has cost them millions of rupees which are not accounted for. Now, it is those people who are opposing this Bill because prices are falling and are going to fall. The moment we announced that this Act is going to be repealed, prices have already fallen by Rs.2000 per square foot in the city of Mumbai...(interruptions)...The expert opinion is unanimous and we will go by expert opinion. Experts have all said that the prices of land will fall and the houses for the poor will become affordable only if we repeal this Act. It has come to be called as ULCAR...(interruptions)... Therefore, I beg for leave to introduce this Bill. We can consider the pros and cons at a later stage.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to repeal the Urban Land (Ceiling and Regulation) Act, 1976."

The motion was adopted.

SHRI RAM JETHMALANI: I introduce the Bill.

श्री मोहन सिंह : सभापति महोदय, यह गलत किया जा रहा है, इसलिए हम इसके विरोध में सदन से बहिर्गमन करते हैं।

15.24 hrs.

(Shri Mohan Singh and some other Hon'ble Members then left the House)

SHRI ANIL BASU (ARAMBAGH): We also walk out of the House in protest against the introduction of the Urban Land (Ceiling and Regulation) Repeal Bill.

15.25 hrs

(At this stage, Shri Anil Basu and some other hon. Members left the House.)
