

**Title:** Need to condemn the statement made by Shri Ram Jethmalani, Minister of Urban Affairs and Employment on the independence and freedom of judiciary.

SHRI ARIF MOHAMMED KHAN (BAHRAICH): Mr. Chairman, Sir, I thank you very much for giving me permission to raise this matter which is of extreme public and constitutional importance.

Yesterday all the newspapers have carried a news item and it has also been on major TV channels where the Union Urban Affairs and Employment Minister, Shri Ram Jethmalani has made very critical remarks about the hon. Chief Justice of India. The Minister is reported to have said that some of the nominees of the Chief Justice, Justice M.M. Punchhi are not the best persons for the job. He further said that, "I do not want to get into the names nor do I wish to tell you what the allegations are but certainly there is a good bit to be said that they are not the best persons who are being selected." They are selected by the Chief Justice of India and he further alleged that..\* These allegations amount to vilifying the Judges, scandalising Judges, bringing down the courts in the esteem of the people. I can understand, that the problem with the Ministers of this Government is that they do not have much experience of being not in the Opposition. The Constitution places restrictions even on this hon. House. This august House cannot discuss the conduct of a judge either of the Supreme Court or of the High Court except upon a substantive motion. (Interruptions)

Yes, that is what a substantive motion means. The Constitution places a bar on this august House, on Parliament, and does not allow any discussion about the conduct of the Judges and a Minister of the Union Government goes public, makes remarks which are not only critical but what he says is very important. He says that\*

This is a reflection; he is not only making remarks about the conduct of the Chief Justice of India. He is also making a reflection on the character and integrity of the hon. Chief Justice of India. It is a well settled law -it is extremely important, I thank you for permitting me, I will take another two minutes -- of the land that the remarks of this nature are not only directed against the Judge but are directed against the public because they result in the erosion of the confidence of the people in courts and any attempt which results in the erosion of the confidence of the people either in the judges or the erosion of the court is a negation of not only democracy but a negation of the constitutional existence and rule of law.

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\*Expunged as ordered by the chair.

The gravity of the Constitution can be realised from the fact that the Prime Minister's office has been constrained to issue a statement yesterday in which they have distanced themselves from the statement which has been made by the hon. Minister.

But very cleverly the Prime Minister's Office has said that the remarks which have been made by Shri Ram Jethmalani about the powers of Chief Justice regarding the appointment of judges may be different and said that the Government did not question the right of the Supreme Court. It is not a question of challenging the powers or rights of the Supreme Court. What I am taking objection to and what I feel this hon. House must take objection to are the reflections which have been caused on the integrity and character of the judge when an hon. Minister of the Union Government says that\* He has not merely questioned the powers and rights of the Chief Justice. What he has done is he has tried to undermine the independence of the judiciary. He is trying to bend the judiciary to the tune of the Executive. The Executive is showing intolerance for the freedom of the judiciary. I consider this as extremely important. The House must take note of it. I am saying this with all seriousness that unfair accusations against constitutional authorities, not traditionally free to retort, should not be and cannot be glossed over by this hon. House. The Chief Justice of India is not supposed to retort to the statements which are made by the Union Minister.

Sir, I thank you for permitting me to raise this issue. I take this opportunity to use the strongest possible sentiments to condemn these statements which are aimed at undermining the independence of the judiciary and the freedom of the judiciary. Unfortunately, the Union Minister, who is a legal luminary, was involved in that

controversy which was started on the eve of the appointment of Justice Punchhi as Chief Justice of India. Now, he has become a Union Minister and is trying to misuse his position to settle old scores. I have already said that the problem with him is that he does not have much experience of not being in opposition. (Interruptions). I am saying that he does not have much experience of being in the Government. This is what I am saying.

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\*Expunged as ordered by the chair.

Sir, at least this branch of the Executive must not be allowed to undermine the freedom of the judiciary.

SHRI P.C. CHACKO (IDUKKI): Sir, I fully subscribe to the issue raised by the hon. Member. This has another dimension also. I have also given a notice on this issue. This issue has brought the highest judiciary of the country to disrepute by the irresponsible statement of the hon. Minister.

A number of vacancies are pending for the last so many months in the highest judiciary of the country. According to the existing norms, which is the law of the land, it is incumbent on the part of the Government to accept the recommendation of the Chief Justice. But the recommendation of the Chief Justice is being returned. I am not saying that the Executive should not have their say in this matter.

The hon. Minister of Home Affairs had said that there should be judicial reforms. Shri Ram Jethmalani has come out with an irresponsible statement, which is almost amounting to denigrating the judiciary. If that is the stand of the Government, let them come before the House and suggest their modus operandi for selection of the judges. But, today, what is happening that a panel is being forwarded by the Chief Justice of India.

A question was asked in Parliament whether there is any file pending before the Government. The answer was given by the Minister of Law in Parliament that no file is pending with the Government. But the fact remains that on the 7th, 8th and on 9th, after this question was raised in the House, the file was sent back with a noting which shows total lack of confidence in the highest judiciary of the country. Some names were proposed of the depressed classes, Other Backward Classes and Scheduled Castes and Scheduled Tribes. I do not want to go into the names. The attitude of this Government, the Ministry of Law and the hon. Minister, making a statement, is contemptuous to the backward classes.

Some of the outstanding names which are being recommended have been sent back with silly reasons and are totally unconvincing. Sir, their problem is, as said by the hon. Minister, that at the time of appointment of the Chief Justice also, these people were raising the same issue. Now they are misusing their position in the Government. As Ministers of the Government of India, they are misusing their position and they are taking up a fight with the Judiciary, which is denigrating the position of the Judiciary in the country. They should come out with a concrete suggestion. I want your direction in the matter, Sir. You have to direct this Government to tell this House what action they are going to take for filling up the vacancies in the highest judiciary. They have not taken any decision in the matter. Not only in this judiciary, in the Allahabad High Court and also in various other High Courts in the country, a number of posts are lying vacant for the last many months, but none of the recommendations proposed by the Chief Justice of India is being accepted by this Government. This is a contempt of the system which we have accepted. So, you may kindly direct the Government to make their stand very clear in this House and also the disrepute which is brought to the highest judiciary in the country should be rectified. This cannot be allowed, Sir. So, I request you to direct the Government to make a statement in this House on this matter.

MR. CHAIRMAN Shri Ram Vilas Paswan.

... (Interruptions)

">SHRI BASU DEB ACHARIA : Sir, please allow me for a minute to speak on this...(Interruptions).

MR. CHAIRMAN: On this, many names are there and if everybody is to comment on this, other issues which we have listed will have to forego.

SHRI BASU DEB ACHARIA : Sir, I will take only one minute.

MR. CHAIRMAN: No one minute, Shri Acharia. If I may tell you, there are a lot of Members here who want to speak on this point. It is difficult to accommodate everybody.

SHRI BASU DEB ACHARIA : Sir, we condemn the irresponsible statement made by the Minister of Urban Affairs in regard to the Chief Justice of the Supreme Court...(Interruptions)

MR. CHAIRMAN: Shri Acharia, there are some more names to be called before we adjourn. At 1.30 PM we are going to adjourn the House.

SHRI BASU DEB ACHARIA : Sir, how can a Minister, a member of the Cabinet, make such a statement in regard to the appointment of judges? This is most unconstitutional and is denigrating the independence of the Judiciary. There is a demand for a Judicial Commission which will look after the appointment of judges. Why can the Government not bring a Bill for a Judicial Commission so that judges can be appointed by that Commission and the vacancies can be filled up?

श्री मदन लाल खुराना: सभापति महोदय, आरिफ साहब ने सरकारी स्पष्टीकरण अधूरा पड़ा है। सरकारी स्टैंड के बारे में स्पष्टीकरण में कहा गया है कि वह श्री जेठमलानी जी के व्यक्तिगत विचार थे।

श्री मोहन सिंह : ऐसा कैसे हो सकता है? क्या कोई मंत्री ऐसे वक्तव्य दे सकता है?

... (व्यवधान)

श्री मदन लाल खुराना : आप पढ़े-लिखे हैं और मेरे पुराने मित्र हैं। मेरी पूरा बात सुनने के बाद कुछ कहें।

... (व्यवधान)

आप मेरी बात सुन लीजिए।

श्री मोहन सिंह : क्या आप जुडिशियरी पर इस तरह आक्षेप कर सकते हैं? ... (व्यवधान)

सभापति महोदय : आप पहले मिनिस्टर का पूरा रिप्लाय सुन लीजिए।

... (व्यवधान)

श्री रघुवंश प्रसाद सिंह (वैशाली): पहले यह तय हो जाना चाहिए कि वह मंत्री जी का वक्तव्य है या उनके व्यक्तिगत विचार हैं।

... (व्यवधान)

मंत्री जी ने जो बयान दिया है, वह सरकारी बयान माना जाना चाहिए, पहले इसका फैसला हो जाना चाहिए।

... (व्यवधान)

अगर मंत्री जी बोलेंगे तो वह सरकारी बयान होगा चाहे वह हाउस में बोलें या हाउस के बाहर बोलें या किसी सेमिनार में बोलें।

श्री लाल मुनी चौबे (बक्सर) : मुलायम सिंह जी का बयान तीन जगहों में आया है। उन्होंने कहा कि आरक्षण नहीं मिलेगा।

... (व्यवधान)

जजों पर हमारी दृष्टि शंकालू है। हमें न्याय नहीं मिलेगा। ये दोनों मामले एक ही संदर्भ में आते हैं। मुलायम सिंह जी का जुडिशियरी के प्रति संदेह व्यक्त करना सही नहीं है।

... (व्यवधान)

श्री मोहन सिंह : मुलायम सिंह जी मिनिस्टर नहीं हैं।

... (व्यवधान)

सभापति महोदय : आप मंत्री जी की रिएक्शन सुन लें।

श्री मदन लाल खुराना : मैं यह कह रहा था कि कल ही सरकार की तरफ से स्पष्टीकरण आया है कि वह बयान भारत सरकार का नहीं है लेकिन सदन की भावना को देखते हुए मैं जेठमलानी तक आपकी भावना को पहुंचाऊंगा। मैं उनसे निवेदन करूंगा कि वह सदन में आकर

... (व्यवधान)

श्री मोहन सिंह : यह हर चीज में कहते हैं कि अवगत कराएंगे

... (व्यवधान)

श्री मदन लाल खुराना : आप मेरी बात सुन लीजिए। मैं कह रहा हूँ कि वह इस बारे में स्टेटमेंट देंगे।

... (व्यवधान)

सभापति महोदय, यह तो ज्यादाती है।

श्री मोहन सिंह : महोदय, जो भी विषय उठता है, उसके बारे में कहा जाता है कि उन तक पहुंचाएंगे।

... (व्यवधान)

श्री मदन लाल खुराना : मेरा कहना है कि वह सदन में आकर बताएंगे कि उन्होंने क्या कहा है और क्या नहीं कहा है? वह आपकी मिसअंडरस्टैंडिंग को दूर करेंगे।

... (व्यवधान)