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Title: Further discussion on the motion for consideration of the High Court And the Supreme Court Judges (Salaries And Conditions Of Service) Amendment Bill, 2017 (Bill passed)

**श्री गोपाल शेट्टी (मुम्बई उत्तर) :** उपाध्यक्ष जी, आपने मुझे बोलने का मौका दिया, इसके लिए मैं आपको धन्यवाद देता हूँ। उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2017 का समर्थन करने के लिए मैं खड़ा हुआ हूँ। उच्च न्यायालय और उच्चतम न्यायालय के जो न्यायाधीश होते हैं, उनके वेतन सेवा शर्तों के बारे में यह प्रस्ताव है और मुझे नहीं लगता है कि कोई भी इस प्रस्ताव के विरोध में होगा, सभी लोग इसका समर्थन करेंगे और करना भी चाहिए। हमारे देश में न्यायालयों का एक अलग महत्व है। हमारे देश की लोकशाही की यह ब्यूटी है कि हम सब लोग मिलकर न्याय प्रक्रिया का बहुत सम्मान करते हैं। न्यायालयों और न्यायाधीशों को लोग देश के न्याय देवता के रूप में भी देखते हैं। क्योंकि न्याय प्रक्रिया से संबंधित जो विषय होते हैं, उन विषयों का निपटारा करने में भले ही देरी होती होगी, लेकिन किसी बात को अनदेखा करते हुए बहुत बड़ा जुल्म या बहुत बड़ा अन्याय किसी के साथ हुआ हो, ऐसा बहुत कम सुनने को मिलता है। इसलिए न्याय प्रक्रिया के प्रति जितना उचित सम्मान आम नागरिकों में होना चाहिए, वह आजादी के 70 के बाद आज भी बरकरार है, यह हम सबके लिए बहुत खुशी की बात है।

महोदय, मैं इस बिल के माध्यम से सर्वोच्च न्यायालय का अभिनंदन करना चाहूंगा। साथ ही धन्यवाद करना चाहूंगा, क्योंकि न्याय प्रणाली, न्याय प्रक्रिया आज जो महंगी होती जा रही है। वकीलों के माध्यम से जो फीस ली जाती है, वह इतनी महंगी हो गई है कि सामान्य व्यक्ति न्यायालय में जाने के बारे में आसानी से सोच नहीं पाता है और फिर वह वकीलों से सम्पर्क करने का प्रयास करता है। इसलिए इस बात की गंभीरता को समझते हुए सुप्रीम कोर्ट ने सुओ-मोटो एक निर्देश दिया, निश्चित रूप से देश के लोगों ने उसके कारण एक समाधान महसूस किया है।

वर्तमान पत्र में जो बातें आयी हैं, उन्हें मैं कोट करना चाहूंगा।

“Expressing concern over growing commercialization of the legal profession with lawyers demanding “astronomical” fees from litigants which made it difficult for the poor to access justice, the Supreme Court on Tuesday asked the Centre to bring a law to regulate the field and to prescribe “floor and ceiling of advocate’s fees”.”

आगे उन्होंने यह भी कहा है। I quote:

“Referring to various judgements of the apex court and reports of the Law Commission, a bench of Justices Adarsh K. Goel and U.U. Lalit said it was high time the Centre intervened and brought a legislation to maintain ethics in the legal profession and ensure that the poor were not deprived of legal assistance from

competent lawyers due to lack of funds. It also deprecated the practice of lawyers demanding a share in their client's pecuniary benefits awarded by courts and said it was professional misconduct for which action should be taken against erring advocates."

मैं मानता हूँ कि यह सुप्रीम कोर्ट के जजेज ने एक बहुत बड़ा सुओ मोटो संकेत दिया है और केन्द्र सरकार से इस बात के बारे में आग्रह भी किया है कि इसके बारे में कायदे में जो भी उचित परिवर्तन है, वह आपको करना चाहिए। मुझे पूरा विश्वास है कि हमारी सरकार और हमारे जो विधि मंत्री हैं, वे अगले बजट सत्र में इसके बारे में कोई न कोई नया बिल पेश करेंगे।

महोदय, जब मैं सुप्रीम कोर्ट की एक अच्छी बात को लोगों के सामने रखता हूँ तो इस सभागृह की ओर मेरी, हम सबकी एक व्यथा भी है कि इस देश में हाई कोर्ट और सुप्रीम कोर्ट में जजों की जो नियुक्ति होती है, उनकी नियुक्ति के बारे में आजादी के 70 साल से जो एक प्रथा, परम्परा चली आई है, उसके मुताबिक ही कामकाज होता है। वरुण 2014 में जब देश में एक बहुत बड़ा परिवर्तन आया, देश के लोगों ने एक सरकार को बदलकर दूसरी सरकार जब पुरःस्थापित की तो सभी क्षेत्रों से लोगों की कुछ न कुछ उम्मीदें थीं कि सारे क्षेत्रों में एक बड़ा परिवर्तन आए। जूडिशियरी का जो एक सिस्टम हमारे देश में डेवलप हुआ है, उसमें से रास्ता निकालने के लिए सरकार ने नेशनल जूडिशियल एप्वाइंटमेंट कमीशन का गठन करने का प्रयास किया। इस लोक सभा ने उस बिल को पास किया। इस बिल को वापस न्यायालय के माध्यम से खारिज करने का जो काम हुआ है, मैं मानता हूँ कि यह लोकशाही के लिए अच्छी बात नहीं है। मैं अपनी मर्यादा को जानते हुए अच्छे शब्दों में अपने भाव को व्यक्त करने का प्रयास करूँगा। सवा सौ करोड़ का यह देश पूरी दुनिया को एक नया संकेत आने वाले दिनों में देने के प्रयास में है और जब से मोदी जी प्रधान मंत्री बने हैं, पूरी दुनिया में भारत देश का एक अलग मैसेज, एक अलग गरिमा, एक अलग सोच जा रही है, जिसका पूरी दुनिया के लोग वेलकम करने के लिए तैयार बैठे हैं। ऐसे समय पर हमारे देश की एक बहुत बड़ी जवाबदेही, जिम्मेदारी बनती है कि जिस-जिस क्षेत्र में हम लोग काम करते हैं, उससे दुनिया भर के लोग कुछ न कुछ सीख लें, यह पूरी दुनिया की अपेक्षा है और हमारे देश के लोग भी उस मानसिकता में हैं।

महोदय, यह जो सिस्टम वरुण 1950 से चल रहा है। मैं उसको कोट करूँगा।

"As head of the Supreme Court, the Chief Justice is responsible for the allocation of cases and appointment of constitutional benches which deal with important matters of law. In accordance with Article 145 of the Constitution of India...and Article 124 of the Constitution of India provides for the manner of appointing judges to the Supreme Court. Though no specific provision exists in the Constitution for appointing the Chief Justice, who as a result, is appointed like the other judges, conventionally, the outgoing Chief Justice of India recommends the name of the senior-most judge (that is by date of appointment to the Supreme Court) for appointment by the President of India, as his successor. "

When Prime Minister Nehru Ji wanted to see Justice M.C. Mahajan, next in line to become the Chief Justice of India, superseded on Justice Patanjali Sastri's retirement, three

Judges of the Supreme Court, including Justice Mukherjea, whom Nehru wanted as the next Chief Justice, offered to resign. He relented before the Judges and the convention of seniority in appointment was left undisturbed. On the contrary, this convention has been breached on a few occasions during the tenure of Prime Minister Indira Gandhi Ji. She got Justice A.N. Ray appointed as Chief Justice of India, superseding three Judges senior to him.

उपाध्यक्ष जी, इन सारी व्यवस्थाओं के माध्यम से हमारा देश आगे बढ़ा। वर्तमान में जो प्रणाली चल रही है, उसके माध्यम से इस प्रकार की बातें भी सामने आई हैं। मैं मानता हूँ कि सुप्रीम कोर्ट का इस देश में एक बहुत ऊँचा स्थान है। वहाँ पर इस प्रकार की बातें होना इतने बड़े देश के लिए अच्छी बात नहीं है। इसके लिए एक नया मैकेनिज्म बनाने की बहुत आवश्यकता थी। इस बात को ध्यान में रखते हुए मोदी जी की सरकार ने 'नेशनल ज्यूडिशिएल अप्वायंटमेंट कमीशन' बनाना तय किया और उसके बारे में यहाँ पर बहुत चर्चा भी हुई।

उपाध्यक्ष जी, भारतीय जनता पार्टी जब पारदर्शिता की बात करती है तो देश के इतिहास में पहली बार लोक सभा में इस प्रकार की स्थिति का निर्माण हुआ, जहाँ पर विपक्ष के पास जितनी संख्या होनी चाहिए थी, उतनी संख्या भी नहीं हो पाई। इस बात को सरकार ने ध्यान में रखकर उस बिल के नियमों में जो बदलाव होना चाहिए था, उसे किया, ताकि कम संख्या होते हुए भी विपक्ष को उसका दर्जा मिले और यह जो कमीशन बनने वाला है, इसमें उनकी भी सहभागिता हो। हमने विपक्ष को भी इसमें समाविष्ट करने का प्रयास किया। यह एक बहुत ही अच्छा सिस्टम है। मैं मानता हूँ कि इससे अच्छा सिस्टम कोई हो ही नहीं सकता है। अगर इसमें भी कोई सुझाव आए तो निश्चित रूप से उसका स्वागत करना चाहिए और ऐसे सुझावों को सामने लाना भी चाहिए।

हमारे प्रधान मंत्री जी जब पूरे देश के सवा सौ करोड़ लोगों की बात करते हैं तो इसमें उन सभी सवा सौ करोड़ लोगों को समाविष्ट करने का प्रयास किया गया है। वह कैसे किया गया, इसको मैं इस तरह से बताने का प्रयास करूँगा कि देश के जितने भी लोक सभा के मेम्बर्स हैं, वे प्राइम मिनिस्टर को चुनते हैं तो उनका उसमें योगदान हो जाता है। देश के राष्ट्रपति को लोक सभा और राज्य सभा के सभी एम.पी. वोट देते हैं और हमारे देश के जितने भी राज्य हैं, उन सारे राज्यों के जो एम.एल.एज. होते हैं, उनके वोट से राष्ट्रपति का चुनाव होता है। इसलिए इस देश के राष्ट्रपति को भी इसमें समाविष्ट किया गया। जो रिटायर होने वाले चीफ जस्टिस हैं, उन्हें इसमें रखा गया। जैसा मैंने कहा कि लोकशाही में जब एक पार्टी की सरकार बनती है तो विपक्ष की भी एक बहुत बड़ी भूमिका होती है, विपक्ष का भी बहुत बड़ा 'say' होता है। इसलिए इसमें विपक्ष को भी समाविष्ट करने का काम किया गया। हमारे देश के सुप्रीम कोर्ट के जजों को जब चुनने की बात आई तो ऐसे सभी लोगों को एक साथ लाकर इतना अच्छा एक मैकेनिज्म बना। पर, उस मैकेनिज्म को भी खारिज करने का काम होते हुए इस सभागृह में बैठे हुए हम सब लोगों ने और पूरे देश के लोगों ने देखा।

महोदय, मैं मानता हूँ कि इक्कीसवीं शताब्दी में अगर हमें पूरे जगत पर राज करना है तो कम से कम हमारी ज्यूडिशियरी और हमारे इलेक्ट्रेड रिप्रेजेंटेटिव्स के बीच इस प्रकार के मतभेद होना या किसी मुद्दे को लेकर टकराव होना देश की गरिमा के लिए अच्छी बात नहीं है। इसलिए, सब लोगों को

मिल कर देश को आगे ले जाने का प्रयास करना चाहिए। अगर हम इलेक्टेड रिप्रेजेंटेटिव्स कहेंगे कि 'हम बड़े हैं', क्योंकि हम कायदा बनाते हैं, और अगर न्यायालय कहेंगे कि 'हम बड़े हैं' और इसी तरह, ब्यूरोक्रेसी अपना काम करता है, मीडिया का अपना ही एक बोलबाला है और इन सारे लोगों द्वारा 'हम बड़े हैं - हम बड़े हैं' करने में कहीं-न-कहीं हमारा देश छोटा होता जा रहा है। इस प्रकार का दृश्य और इस प्रकार की चिंता पूरे देश भर के लोगों के मन में जाग रही है। मैं चाहूंगा कि आने वाले दिनों में एक सकारात्मक सोच के साथ देश को आगे ले जाने के लिए हम अपने दायरे में रहते हुए एक-दूसरे का सम्मान करते हुए, एक-दूसरे के साथ वार्तालाप करते हुए, इंटरैक्शन करते हुए अगर कोई बात करते हैं तो उसका एक बहुत अच्छा असर हो सकता है।

इस बिल पर अपनी बात रखते हुए मैं फिर एक बार कहूंगा कि यदि यह सुप्रीम कोर्ट तथा हाई कोर्ट के जजों के वेतन का मामला है, तो इसके बारे में उनकी भी बारिकी से निगरानी होगी। इस सभा की जो मानसिकता व भावना है और सारे देशवासियों की एक भावना है कि जब सुप्रीम कोर्ट के जजों की नियुक्ति होती है तो कॉलेजियम सिस्टम के माध्यम से न होते हुए, लोक सभा ने जो एक मैकेनिज्म तैयार किया है, एक सिस्टम डेवलप किया है, वह नेशनल जुडिशियरी अप्वाइंटमेंट कमीशन है। आने वाले दिनों में हम लोगों को इसे स्वीकारते हुए बहुत बड़ा मन बनाकर चलना पड़ेगा।

इसलिए सुप्रीम कोर्ट के वकीलों की पगार के बारे में उन्होंने जो सूओ-मोटो का निर्देश दिया, मैं उसका स्वागत करता हूँ। आखिर, जो जज बनते हैं, वे वकीलों में से ही बन कर आते हैं; लेकिन उन्होंने इस बात की अनदेखी की कि हम वहाँ से आए हैं, हम इनके बारे में कैसे इस प्रकार की सूओ-मोटो या कोई टिप्पणी करें, लेकिन उन्होंने देश के हित के लिए किया। हम सभी लोग देखते हैं कि आज कोर्ट में जाना कितना महँगा हो गया है। जब मैं सुप्रीम कोर्ट की बात सुनता हूँ तो आश्चर्य होता है और मेरे जैसे एक सांसद को भी कभी-कभी सोचना पड़ता है। मेरे बारे में भी इलेक्शन का एक रिट पिटिशन फाइल हुआ था। जब वह हाई कोर्ट से होते हुए सुप्रीम कोर्ट में आया तो मेरे पार्टी के जो वकील हैं, वे मुझे नःशुल्क मदद करते हैं। इसके बावजूद भी उन्होंने जो बातें बतायीं, मैंने कहा कि छोड़िए दोस्त आपसे जितना होता है, उतना कर लीजिए, अगर मैं हार भी गया तो क्या बिगड़ने वाला है। जब देश के इतने सारे लोग सोशल वर्क करते हैं, तो मैं भी कर लूँगा, मैं कहाँ से इतना सारा पैसा खर्च करूँगा। महाराष्ट्र से सबसे ज्यादा वोटों से जीत कर आने के बाद भी अगर किसी ने मेरे बारे में किसी छोटी सी बात को लेकर रिट पिटिशन फाइल किया होगा, तो वहाँ जीत हासिल करने के लिए लाखों रुपये खर्च करने पड़ते हैं, लेकिन मैंने कहा कि इसे न करके यदि मैं आम लोगों की तरह ही सोशल वर्क करूँगा तो वह अच्छा रहेगा।

उपाध्यक्ष जी, कोर्ट का जो सिस्टम बना हुआ है, बहुत सारे वकील भी यहाँ पर हैं और हमारे लॉ मिनिस्टर श्री रवि शंकर प्रसाद जी संघेन करते-करते यहाँ तक पहुँचे हैं। कभी-कभी मेरे मन में यह विचार आता है कि जब कोर्ट में किसी केस की तारीख पड़ती है, यदि यह तारीख पड़ती है तो जितनी फीस तय की गई है, उतना पूरा का पूरा देना पड़ता है। क्या इस बारे में कोई सोच नहीं सकता है कि यदि कोई आर्ग्यूमेंट किया तो उसकी फीस उतनी ले लीजिए और यदि आर्ग्यूमेंट नहीं हुआ तो उसकी फीस कितनी होनी चाहिए। अगर इतने बड़े देश में हम इसके लिए कोई मैकेनिज्म डेवलप नहीं करेंगे तो सामान्य आदमी आने वाले समय में न्यायालय में कैसे जाएगा, यह मुझे समझ में नहीं आता है।

कई बार ऐसा होता है कि इस वकील को टाइम नहीं है, इसलिए दूसरे वकील ने टाइम ले लिया और अगली तारीख पड़ गई। फिर, जब दूसरे वकील को टाइम नहीं तो तीसरे वकील ने टाइम माँग लिया, इसलिए अगली तारीख पड़ गई। इस तारीख-तारीख के चक्कर में जो आदमी कोर्ट में न्याय माँगने के लिए जाता है, उसकी हालत ऐसी हो जाती है और उसे लगता है कि उसके जीवन की तारीख बढ़ने की वजह से उसकी आयु कम होती जा रही है। इस प्रकार की उसकी स्थिति बन जाती है। इसके बारे में हमें आने वाले दिनों में बहुत ही सकारात्मक दृष्टि से सोचना होगा। जब सुप्रीम कोर्ट ने इसके बारे में निर्देश दिया है कि हमें कायदा बनाना चाहिए, मैं फिर एक बार इस बात की अपेक्षा करूँगा कि इसके बारे में कोई कायदा बनाया जाए।

उपाध्यक्ष जी, मैं अपनी बात को जल्दी ही समाप्त करूँगा। मैं अपनी भावनाओं के माध्यम से कुछ मुद्दे यहाँ स्पष्ट करना चाहूँगा। जो नेशनल जुडिशियरी कमीशन है, इस कमीशन में भी हमारे देश के जो लॉ मिनिस्टर हैं, उनका भी उसमें समावेश नहीं है। उनको भी अपनी बात वहाँ रखने का मौका नहीं मिलता है। मुझे इस बारे में भी जानकारी प्राप्त हुई है। मैं कभी-कभी आश्चर्यचकित हो जाता हूँ कि आज हमारा देश इतना सुदृढ़ हो गया है, अभी हम सभी क्षेत्रों में आगे बढ़ रहे हैं, टेक्नोलॉजी के क्षेत्र में भी हम लोग बहुत आगे बढ़ गये हैं; लेकिन ये जो छोटी-छोटी बातें हैं, इसमें कहीं न कहीं हमारा इगो क्लैश होता है और "मैं बड़ा-मैं बड़ा" के चक्कर में देश में बहुत सारी समस्याओं का निर्माण हुआ है। मैं चाहूँगा कि आने वाले दिनों में इन सारी समस्याओं से निपटारा पाने के लिए हम जल्दी से जल्दी आगे की तरफ कदम बढ़ाते हुए बढ़ेंगे। मैं फिर एक बार इस बिल का समर्थन करते हुए कहना चाहता हूँ कि इस बिल में न्यायाधीशों के पगार का जो मामला है, जितनी उनकी माँग है, उतनी देनी चाहिए, लेकिन न्यायाधीशों के माध्यम से भी देश में जो अफेक्टेड लोग हैं, उनके बारे में भी एक सकारात्मक सोच आगे लायी जाए। इस प्रकार की भावना व्यक्त करते हुए मैं अपनी बात समाप्त करता हूँ। बहुत-बहुत धन्यवाद।

SHRI M. UDHAYAKUMAR (DINDIGUL): Mr. Deputy-Speaker, Sir, *vanakkam*. I thank you very much for the opportunity given to me to speak on the High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2017.

The hon. Supreme Court Judges and the High Court Judges are dignified personalities in society. They need to be provided with sufficient salaries and allowances in accordance with the Seventh Pay Commission hike.

The High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2017, seeks to amend (i) the High Court Judges (Salaries and Conditions of Service) Act, 1954 and (ii) the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958.

The Bill seeks to revise their salaries almost three times with effect from 1<sup>st</sup> January, 2016. The Bill also seeks to revise the allowances of expenses incurred on account of

entertaining visitors two times with effect from September 22, 2017.

HON. DEPUTY-SPEAKER: Please maintain silence in the House. Noise comes only from this side. I do not want anyone to stand there.

SHRI M. UDHAYAKUMAR: Sir, this Bill seeks to revise the house rent allowance to 24 per cent of emoluments. Further, it specifies that the house rent allowance will be revised to 27 per cent of their salaries when the Dearness Allowance crosses 25 per cent and it would be revised to 30 per cent of their salaries when the Dearness Allowance will cross 50 per cent.

This Bill also seeks to revise the pension for judges under both these categories and further it also aims at revising the cap on the maximum pension payable to these judges to almost three times. Apart from salaries and pensions, there is a need to provide sufficient funds to States for providing infrastructure facilities for Judiciary. There is also need for inviting local MPs and MLAs to the various Government and judicial functions that are organised like inauguration of new court premises not only in the State of Tamil Nadu but also in other States of the country.

A Bench of the Supreme Court is also needed to be set up in South India, particularly in the State of Tamil Nadu. That will help in rendering quick justice to the people of Tamil Nadu in particular and also to the people in South India in general.

Mr. Deputy-Speaker, Sir, thank you very much for giving me this opportunity to speak on this Bill.

SHRI KALYAN BANERJEE (SREERAMPUR): Hon. Deputy-Speaker, Sir, thank you very much for giving me this opportunity. Today we are discussing the provisions of the High Court and Supreme Court Judges (Salaries and Conditions of Service Amendment) Bill, 2017 whereby the salaries of the judges of the High Court and the Supreme Court are proposed to be increased.

HON. DEPUTY-SPEAKER: I would like to request the hon. Members standing on this side. They may go outside and discuss and it is not necessary to stand here. It is embarrassing for me because if it goes on like this, then people may think that I am not able to control the House. I am getting that kind of a feeling. I am sorry for what is going on.

SHRI KALYAN BANERJEE : It is being said as if the salaries of the judges are being increased three-fold. I would like to give you some figures. The salary was Rs. 80,000/-. As on November, 2017 a High Court judge had been receiving Dearness Allowance of Rs.

1,11,200/-. Therefore, the total salary comes to Rs. 1,91,200/-. The principal is that Dearness Allowance is merged with the basic pay. Now, they will be getting Rs. 2, 25, 000/-. That means, the hike in salary is only to the tune of around Rs. 30,000 or so. It is not that it is being increased three times their present salaries. It has to be done. Later on they will get the Dearness Allowance whatever may be their entitlement. But as it stands today, only a sum of around 25 to 30,000 have been increased.

Sir, I am not opposing this Bill. I would like to say something on this. India is the largest democratic country in the world. Our Judiciary has a tremendous role for strengthening our democracy. There is no doubt about it. There is also no doubt that the poorest of the poor people of this country has confidence in the Judiciary.

There is no doubt about it. We should feel proud of our judiciary. But I will just point out certain things which need to be resolved immediately. Otherwise, the country will suffer and the people will suffer. How many cases are pending in our courts? All the time I hear the lectures of the dignified judges in various seminars and other forums. But how many pending cases are there? If I am right, as of today, there are six vacancies in the Supreme Court. There is not a single representation from the Kolkata High Court in the Supreme Court for many months. On the contrary, there are four to five representations from the Mumbai High Court. Where is the balance? If I am right, even from the Patna High Court and Odisha High Court there is only one representation. Why is the eastern region has been overlooked so much? Will there be representations only from the Mumbai region?

One of the judges of the collegium who is from south India has said that he will not sit until at least one judge from south India is appointed. Is this the spirit with which a judge of the collegium should function? He says that judges from his own region should be appointed first and then the collegium will consider the appointment of other judges.

If I am right, as it stands today, nine vacancies of Chief Justices are lying vacant all over the country. In Kolkata High Court, for the last one year there is no Chief Justice. Nearly 355 vacancies of judges are lying vacant all over the country. Whose fault is this? Has the collegium of the Supreme Court not recommended the names to the Central Government? Or is it pending with the Central Government?

So far as my knowledge goes, the names have not been recommended by the collegium. In the Second Judges case, it was decided by the Supreme Court that the process

should be started by the High Court and the Supreme Court six months before the vacancy arises. But vacancies are lying vacant for years together and they are not being filled up.

I, through you, appeal to the Law Minister to take up this matter. The hon. Law Minister comes from Patna. I come from Kolkata. Shri P.P. Choudhary, the Minister of State for Law, who comes from Rajasthan is a very good friend of mine.

Today the disputes among the judges of the collegium come out in the open. They come to the public domain. The dignity of the judiciary is going down. There may be disputes and differences of opinion. These are most confidential things. How can they come to the public domain? They are sending letters. Is this something to be appreciated?

Nobody can appreciate this. We are seeing this everyday. What is the procedure of selection of judges?

Sir, I will give you one instance. You will be surprised, but let the nation know it. The name of one of the very eminent lawyers of the Calcutta High Court was sent to the Collegium by the High Court nearly two years back. The Collegium did not recommend his case. What was the ground? The ground was that he is the nephew of an Ex-Chief Justice of the Allahabad High Court. He is now the Assistant Advocate General of the State of West Bengal. Now, the name of another lawyer who is also a very eminent and a very good lawyer, – I pray to God that he should become a judge – has been recommended by the Calcutta High Court to the Supreme Court and the Supreme Court has also recommended his name, who is the son of an Ex-Chief Justice. The nephew has been excluded because of his relationship, but son's name has been approved. Is it the *ipse dixit* of the Collegium? Can it be done on the *ipse dixit* of the Collegium? What is the procedure? Let us understand the procedure. In another case, the name of one of the eminent counsels of the Calcutta High Court was recommended, but ultimately the Collegium did not recommend his case because his grandfather was a Congressman. In another case, one lawyer's name has been recommended by the Calcutta High Court and, in turn, it has been recommended to the Supreme Court, and she happens to be the daughter of one of the prominent political leaders of West Bengal. Why is this discrimination? I cannot understand this. If you want to take a stand based on the



principle that nobody related to any political personality should be recommended for the post of a judge, I have no objection to that. It cannot be that if he is a relative of one political party's leader, then his name will not be recommended, but if he is a relative of another party's leader, then his name will be recommended. I have a strong objection to this kind of practice. This cannot be appreciated.

Sir, what is the procedure of selection of judges in this country? I would like to ask whether the MoP has been finalised or not. Why is there so much difference of opinion between the Supreme Court and the Central Government regarding finalisation of the MoP? We are all suffering due to non-finalisation of the MoP.

Now I will come to the most important point. Who is responsible for the delay? The Constitution has given the responsibility to us to make the laws. The Constitution has given that responsibility to the Parliament and State Legislatures to make laws in this country. But what is happening today? Under the garb of exercise of power under article 142 of the Constitution of India, all principles and all guidelines are being ... \* is also legislating.

HON. DEPUTY SPEAKER: They are not only legislating, but ... \*

SHRI KALYAN BANERJEE: Yes; now it depends upon the perception of the judges. They are legislating according to their perception.

Sir, I will take some more time. I want to give an illustration here. There was a case in 1982 which was before the House of Lords. In the House of Lords, it was mentioned in the 1982 All England Law Reports. There was a contempt of the Legislators. Ultimately, it went to the House of Lords. The argument was: "These legislators are not that much educated that they can legislate the law." The House of Lords, ultimately said: "You see, whether a legislator or a parliamentarian is educated or not educated is not his business, but his business is that he goes to the people of the country at the grass-roots level and he understands what is the requirement."

Sitting in an air-conditioned chamber, sitting at big, big places one is thinking that 'this should be the perception'. No; that cannot be the law. A perception cannot be made into a law through a judicial process. Legislation should be left to the Parliament.

Sir, looking at the way the thing is going on today about the legislation, it is my reading that not today or tomorrow, may be after five years or 10 years or 15 years there

would be direct conflict between the Parliament and the Judiciary unless this practice is stopped. I would appeal to all the parliamentarians irrespective of party lines to come beyond the party lines, and if necessary, let us go and make an application before the Supreme Court that in appropriate case, they cannot legislate the law. Legislation is the responsibility of the Parliament. Let us, all MPs, go and say that our functions cannot be taken away.

HON. DEPUTY-SPEAKER: They can interpret the law; that is all. But they cannot legislate and execute. They are not the policymakers.

SHRI KALYAN BANERJEE: Yes, they can interpret the law, but they cannot legislate the law.

What should be done? In what way you will work, how long you will remain, everything would be decided. Unfortunately, the thing is that all politicians are bad to the Judiciary.

HON. DEPUTY-SPEAKER: Yes.

SHRI KALYAN BANERJEE: All are bad! They get some bad smells whenever a politician is there. Everyone is bad!

Day by day, we are entering into the field of this country and this conflict is coming up. Unless it is stopped by the Judiciary immediately, after 10 year or 15 years – whether I live up to that day or not, whether you live or not -- a day would be coming when there would be a direct conflict. Then, what would happen to the country itself?

Let everyone discharge his own responsibility. Do not transgress the jurisdiction.

Sir, Prof. Thomas had said about the middlemen. When I was in Kolkata practicing the law, I heard about one or two names of the middlemen. In 2009, I became the Member of Parliament. Then, I started practicing in the Supreme Court also.

HON. DEPUTY-SPEAKER: Mr. Kalyan Banerjee, it is all because of us that such things are happening. It is because when Judiciary is delivering a judgment and if it is against the Ruling party, the Opposition is appreciating it. So, they are taking advantage. These are real things.

... (*Interruptions*)

SHRI KALYAN BANERJEE : That is the reason I have said that let us go beyond party lines. Beyond all party lines, all MPs should, at least in one case, raise it before the Supreme Court saying: “No, it is not your function to legislate the law. Leave it to us. We will legislate the law. You may be the interpreter of the law.”

THE MINISTER OF STATE OF THE MINISTRY OF POWER AND MINISTER OF STATE OF THE MINISTRY OF NEW AND RENEWABLE ENERGY (SHRI R.K. SINGH): Cases are pending for 50 years.

SHRI KALYAN BANERJEE: You will be astonished to know that I am fighting the case of a labour union. I started it in 1992. Today, we are in 2018. The labourers have not got their final release till today. About 26 years have passed. I am spending money from my own pocket. This is also happening in case of poor women. The point is that if you are a rich man, you will get justice quickly but if you are a poor man, you will suffer for decades together. Today, in order to secure good justice, you need to have good money. अगर कोई बड़ी कंपनी हो तो उसका मैटर छः महीने से एक साल में खत्म हो जाएगा। I am not taking any name. But if you are a poor person, you have to remain in a queue. You have to wait for your turn to come. When your turn will come, by that time you will be dead.

Sir, Prof. Thomas was talking about the middlemen. When I was in Kolkata, there were only two or three middlemen. In 2009, I became a Member of Parliament. I am here from 2009 till now. Now, I can see so many middlemen in Delhi. I am not telling anything about all judges. They are our assets. But there is a black sheep everywhere. Who is doing this? Some middlemen and lawyers are responsible for this. I will request the hon. Law Minister – the hon. Finance Minister is not here – that if there is an investigation for scam by CBI, why should there not be an investigation of these types of activities of such middlemen through CBI?

Sir, the infrastructure has to be improved. How much money has been spent on judges training and seminars? I do not know why it is required at all. There is an institute in Bhopal. If they are required to be taught something in seminars, then why have they been made judges? A judge has to decide a case on the basis of the facts presented before him and on the basis of law. What is the point is sending a judge to Bhopal for training to implement

something? I do not know. I cannot understand it. How much money has been spent on this? Mr. Law Minister can tell us because he is giving the money. I cannot say this. Yes, they are giving classes to law students. I can understand that. But I cannot understand as to why a High Court Judge has to take training or he has to go from Kolkata or Kerala to Bhopal for getting training. If he needs such training, then why has he been made a judge? Why is it needed? The public money is being unnecessarily wasted in the name of such seminars and trainings. So many things are there.

Sir, I know that I have to face the criticism in another place for what I am going to tell you now. This is regarding decrease in holidays. I mean, so many holidays should not be there. This is a very good topic. Before one of the Chief Justices of India, when I was arguing a matter – I am not taking the name – the other side was telling: “These politicians..., politicians..., they are doing..., they are doing...”. The Chief Justice asked me: “See, what they are saying about politicians”. I said: “My Lord, my skin has become so thick, you cannot understand.” He asked: “Why?” I said, “Because, while I am in the Parliament, I have to hear criticism of the Judiciary and when I am in the court, I have to hear criticism of the politicians. Therefore, my skin has become thicker than anybody else. I have to bear it.” It is a serious question that holidays have to be decreased. There are so many holidays; there is this practice. Hon. Law Minister, please think about that whether to bring in legislation to this extent that court time should not be closed by anybody because of anybody’s death or any other thing excepting VVIPs like – I am just giving an example – the President of India etc. Why the court time would be stopped? If someone has died, court is closed. This has become a practice in so many places. There are so many pending cases. I am not referring the name of the High Court; this is in our High Court also; some lawyers are interested only in taking leave and how court has to be stopped. Since morning, they start saying, “He has died; court has to be stopped.” In one high court, I had one matter. I am not taking the name of the High Court. For five days I went there. Clients had taken me; had spent money and for five days I could not take up the matter because someone had died and the court was closed.

HON. DEPUTY SPEAKER: But, for whole five days, you were taking the money also!

SHRI KALYAN BANERJEE: I am not saying about my interest. At least, you can understand, today, I am not speaking about my interest. I am speaking in the interest of the entire country. I had to come to the profession in a situation and that was also a compelling circumstance. I had to leave my education; I had to join service not even at the age of 18

years. I had to take admission in law because my mother said, you have to read law. At that time, emergency was there. Therefore, I have come from a family who is affected because of the emergency and which compelled me to come to this profession. Therefore, I understand the pain of the people who are coming and expecting that justice would be done and that the case would be decided today by the court. If it is not there, it pains my heart.

My next point is about live telecast. It is essentially required. We are very bad men. Every time, criticism is there. देखो, पार्लियामेंट में क्या हो रहा है? इतना चिल्लाते हैं। ये एम.पीज लोग क्या कर रहे हैं? यह देखो, कितना चिल्ला रहा है? जब इनका लाइव टेलीकास्ट होगा तब सब देखेंगे कि कोई-कोई जज कितना इरैटिक है, कभी मामला नहीं सुनता है। कभी छोड़ देता है। नहीं सुनेंगे। चले जाइए। यह भी लाइव टेलीकास्ट होना चाहिए। उनका भी व्यवहार देखना चाहिए न। ... (व्यवधान) Why should only the Members of Parliament be blamed? If live telecast of the Supreme Court, the High Courts is there everywhere, then every one can understand how all are behaving. That is much of a concern. This erratic behaviour of few judges can be watched. My next point is this. Think about the removal of ...*(Interruptions)* \* judges. Once he is appointed, he is secured that he will be there for 15 years.

Sir, I am narrating an experience. I have a lot of experiences.

HON. DEPUTY SPEAKER: That is why, I have allowed you to speak.

SHRI KALYAN BANERJEE : One judge sits at 10.30. He takes up one matter and continues it up to 4.30 with the same matter. There are examples also. Do we need these types of judges in our country? We have to see whether they have been turned into deadwood or not. If there is a ...*(Interruptions)* ...\* in a civil service, he is made to compulsorily retire. Then, why a ...*(Interruptions)* ...\* judge would not be. We need performance. Those who cannot perform, they have to leave. Therefore, Sir, so far as the Bill is concerned, it is alright. Let them have it. We know that we will not get it but let them have it. Now, the thing is that at the same time. My question is: whether the administrative side of the Supreme Court or the High Court is liable to give an explanation to the Parliament or not. That is my question. I am seriously thinking about this question for the last two or three days. Can I ask this question? Can I raise these questions or not? I have gone through the law. Now, in the administrative side, the budget gets sanctioned through the Parliament. Therefore, the administrative side of the judiciary is liable to give an explanation and the explanation is to be given to the Parliament itself. Think about this and convey this and seriously think about why I am putting this question. I am not dissenting. Everybody is

supreme in his own field. The political executive is supreme in its own field. The judiciary is supreme in its own field. Parliament is supreme in its own field. But today's question is this. Whose supremacy is it -- supremacy of Parliament or supremacy of judiciary?

Sir, today my speech is not based on any political thing. My speech is based on the professional experience and also on political side because being parliamentarians, we have to give an explanation to our voters. They are not required to give any explanation. No one needs to give any explanation to anyone. But we need to. Once they are selected, they will continue for 15 years or 17 years or 20 years or for 25 years. But we have to give an explanation. We are required to be tested by the people after an interval of five years. Every five years, we are tested. We have to give an explanation. We are accountable. They are not accountable.

Sir, you have given me a very good chance.

HON. DEPUTY SPEAKER: Mr. Kalyan Banerjee, you have used this opportunity very well to explain everything. Let the Minister bring such kind of things often, then we can debate. Otherwise, we have no opportunity to discuss all these things.

SHRI KALYAN BANERJEE: Let me express my gratefulness. Sir, you are really great that today you have given me the chance and the time to speak.

HON. DEPUTY SPEAKER: Thank you. I was also the Law Minister once. I know what is going on.

SHRI KALYAN BANERJEE: It is very nice of you. I am also very happy that the hon. Law Minister is present here. ...*(Interruptions)* Just wait a minute. Let me complete....*(Interruptions)*

SHRI MALLIKARJUN KHARGE (GULBARGA): I am telling you something in your favour. So he himself quoted one example that one judge heard a case for nearly four-and-a-half hours or full time and in case of some others, no chance was given. Like that, Shri Kalyan Banerjee is getting more time to speak before you.

HON. DEPUTY SPEAKER: I will allow others also to speak.

SHRI KALYAN BANERJEE : Anyway, ultimately, he has spoken against me.

Anyway, I am very happy. I express my thanks. The hon. Law Minister is here. The hon. Minister of State is here. The hon. Law Minister is one of the most renowned lawyers. He has a tremendous experience in this profession itself. When he was not the Minister, almost everyday we were meeting in the corridor of the Supreme Court. He is also coming from the grass-roots level. Mr. Chaudhary is also coming from the grass-roots level. They are not spoon-feeding persons who have come. Therefore, let this problem be resolved. This is my request.

There is no doubt about it that I am supporting this Bill. Thank you.

SHRI TATHAGATA SATPATHY (DHENKANAL): Sir, on behalf of my Party, the Biju Janata Dal, my leader, Shri Naveen Patnaik, on behalf of all my colleagues and on my own behalf, I support the High Court and the Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2017.

I was a little sad yesterday the way this Bill had come up. We had started discussing it and then all of a sudden because of very many conditions, we had to postpone this. I consider that this was a kind of a humiliation of the judiciary by this House, although it was completely unintended. Nobody intended it. But we sitting here in the Parliament never wished to harm anybody's reputation and I think the whole House agrees to that. So there should be no misunderstanding on this part.

We appreciate the hard work done by the judiciary. We appreciate how during dark periods of our history, whether in the 70s' when nearly 60 judges were superseded or to the present day when everything seems very dark and threatening, they have remained as a silver lining for all of us. All of us means cutting across the Party lines because we keep changing our seats and we have been on various parts of the floor of this House. I praise the judiciary where people refused to take bribes of Rs.100 crore and gave up their lives also. So these are small incidents or small examples that we have to appreciate.

It is easy to condemn the judiciary for the pendency of cases. It is easy to condemn us also, as people are doing outside. It is easy to call the media fake news media like a President of a great country said on Friday, "I will give a nomination to the best fake news." That has also percolated down to India. But we all know, being in this House what hardships we have to face on a daily basis like my previous senior colleague, whose speech was admirable, who is in that profession. His bread and butter depend on legal practice like the

hon. Minister also because this Minister-ship or MP-ship is temporary. It comes and goes. But you require bread and butter everyday. In spite of that, the true gentlemen are willing to speak so openly and it is an admirable fact.

Sir, we have talked about judges requiring training. I personally feel that everyone of us, whether it is a small fitter or a mechanic or an electrician, right up to the Supreme Court judges and Members of Parliament and whoever become Ministers or Prime Ministers, all of us need constant training; all of us need constant upgradation of skills if we wish to perform better. So, I have absolutely no objection when people go for trainings because something like the international law, which the hon. Minister being a lawyer himself will understand better, is changing.

You recently had this instance where you have to save the life of a person who is held imprisoned in Pakistan and you had to go to the International Court of Justice. You need lawyers, who are steeped in international laws and international laws are changing. So, there is no harm in getting upgraded at all levels by all the people.

About pendency of cases, all of us have suffered some time or the other in our life. It is very easy to put a case against a politician. There are many NGOs which come up with data showing how many MPs are charged with criminal cases. I am proud to be number three in their list. I know that my conscience, my heart is clear. I have not raped; I have not murdered; I have not taken away anybody's land; I have not beaten up anybody.

My cases have been of two kinds. When there have been no drinking water given to my villages and when my villages have not been supplied with electricity, we have come out and done *rasta roko*. We have protested against the DM's office in front of the DM's office. What kind of cases are we slapped with? We have been slapped with cases such as obstructing a Government servant from performing his duties; obstruction of civil facilities. Such cases are also criminal cases.

I edit two newspapers. When I write about a corrupt bureaucrat or a corrupt politician, what do they do? In my State of Odisha, when a woman files a case, there is no stamp duty. It is absolutely zero. So, they get their wife to get a case registered. In one case, the officer concerned got his concubine to file a case against me. So, it is fine. That is how the world is. All of us have faced this. Nobody likes to be at the other end getting the brunt of the attack. Nobody wants to be in a Samstipur blast case where the incident occurred when Mr. L.N. Mishra, a very big luminary, a very big politician was killed in 1973. And, when did the



judgement come? It came in 2012. So, those who have calculators can calculate the number of years.

At the same time, we also have to consider whether it is to this Bench or to that Bench, when you have had successive Governments, what have you done to fill up vacancies, to fill up the empty Benches? Has there been any pro-active action or is it just a blame game that we have put it on the judges that their collegium is not appointing people? Why should a former Chief Justice of India come and cry in front of any elected representative? Have we, at the Prime Minister's level or at the Law Minister's level, more so at the Prime Minister's level, taken any initiative or ever thought of that? It is easy to condemn judges. But think of the plight those fellows are in. I hope that is not a contempt of court to call them 'fellows'.

Then, there have been successive Law Commission Reports and I am reminded of the 177<sup>th</sup> Report, which spoke of transparency.

Many luminaries, many famous judges like Justice Bhagwati, Justice Sharma have also talked about the dire need of transparency in the courts. I am happy to quote a very leading judicial light of this country who, while not in Government, had said 'Judges do not know the law. They prefer to know the Law Minister.' You all know who said that. Your smile says so.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD): Of course, you are not referring to me. I was not there.

SHRI TATHAGATA SATPATHY: No, Sir. I would have said the Law Minister. I did not say the Law Minister. I said you know who I am quoting. I do not wish to name because right now, he is not in the House and I abide by the law.

Courts should be transparent. They should take the lead in opening their doors to RTI. I do not know what for a former Chief Justice was so adamant. You cannot possibly ask to find out what a judge is thinking or making personal notes on a matter on which he has not given the judgement, but on matters relating to cases where the judgements have been passed, there is absolutely no reason why RTI should not be permitted. I hope, the Judiciary in India will take the lead in promoting RTI at every level.

Thereby, we also have to think how the Judiciary wants to go in the matter of contempt of court clause in the statutes. This is something that needs to be tackled not at a level where

we are face to face against the Judiciary, but we have to work together for the betterment of the society and this country so that something as abominable as the contempt of court is removed from the statutes.

Sir, I have another issue. I have many friends who are lawyers and who have stood by me in my bad periods also. They all complain of one thing. They say that I have travelled to so many countries and ask whether I saw lawyers advertising or not. When they told me many times, the next time I went abroad, I looked for it. I saw the advertisements and took the pictures. In the US, in most parts of western Europe, Japan, South Korea and many other countries, lawyers are allowed to advertise.

Just imagine the plight of a villager coming to an urban centre, say, to Delhi to file a case in the Supreme Court, or to Cuttack to file a case in the Orissa High Court or to Kolkata to file a case in the Calcutta High Court. It is not yet 'Kolkata High Court'. I must applaud the courts for holding on to the original spellings. Orissa High Court has held on to Orissa and Calcutta High Court has held on to Calcutta. I am very happy with that. I still write Orissa. When a person comes, he has absolutely no idea. A villager coming to, say, Mumbai will have no idea of who is a criminal lawyer, who is a civil lawyer and who is a certificate lawyer. There are so many varieties. Why are they not allowed to advertise? Therefore, I think that the courts have to take a call on that also. I would expect the Government also to re-think on this issue.

I have a dream and my dream is that we should come to a state wherever whoever files a criminal case against me should supply me with papers also. Let us say the police files a criminal case against me. Then, it should become the bounden duty of the police to supply me with all the papers, including the Police Diary. If I am an accused, why should facts be kept away from me? How will I build my defence? Similarly, in a civil case, if I, being a big landlord, file a case against a small land owner, who has an adjoining piece, with the intention of grabbing his land, why should I not be made to pay for all the papers that are to be supplied to him, including the papers generated on a daily hearing so that the poor man is not tortured for no reason at all?

It is because when we ask for 'with costs' at the end of a petition, I have rarely ever seen courts sanction 'with costs'. So, I hope that this can be taken into consideration.

I was very happy yesterday when the hon. Law Minister was introducing this Bill that the biggest clamour came from behind the hon. Minister. I was so glad. What was the clamour

about? The clamour was about the hike of the salaries of the MPs. The biggest clamour came from there, and we are with you on this. On many things I am not with you. I am aware of the damage that you are causing to this country, but on this thing because all my colleagues want this to be put up, we expect that justice should be done.

I remember that Shri Lalu Prasad Yadav, when he was in this House and I was here, had once suggested to the Speaker while he was sitting in one of these front benches that the best thing to ... *(Interruptions)*

HON. DEPUTY SPEAKER: Mr. Satpathy, it is better to go to the court to get justice for the MPs also and not here. You cannot get it. They will direct to enhance your salaries and that way you can do it.

SHRI TATHAGATA SATPATHY : I was also surprised to know that the President's Secretary gets a salary, which is higher than the President of India. I did not know it and this is amazing! How do you expect this country to run? Similarly, for Judges and MPs instead of bringing these issues up and even humiliating the Judges / MPs in any way, we should ... *(Interruptions)*

I would like to remind what Shri Lalu had said in spite of all the opposition you might have to him. He had said that : "Do not humiliate MPs. Make their salary attached to the Cabinet Secretary's salary with Rupee one extra", and at that time also I had thumped on the desk and I had supported Shri Lalu, which was a very rare occasion.

I would suggest to the hon. Minister that something similar should be done to the hon. Judges also that their salaries thing do not come up here and we do not drag them on the floor of the House, but with all respect and all dignity let them have a system of automatic increase in salary, which should be approved by this House. Thank you very much, Sir.

**श्री विनायक भाऊराव राऊत (रत्नागिरी-सिंधुदुर्ग) :** उपाध्यक्ष महोदय, मैं जजेज़ की सैलरी और पेंशन का यह जो बिल सरकार द्वारा लाया गया है, मैं उसके समर्थन में बोलने के लिए खड़ा हुआ हूँ।

महोदय, मैं मंत्री महोदय जी को धन्यवाद देना चाहूंगा कि उन्होंने अपने स्टेटमेंट में यह स्पष्ट कर दिया है कि भविष्य में भी यानी जब भी पे-कमिशन के द्वारा सैलरीज़ रिवाइज़ होंगी, तब-तब सुप्रीम कोर्ट और हाई कोर्ट्स के जजेज़ की सैलरी रिवाइज़ हो जाएगी। उनको अच्छी तरह से सम्मान मिले, इसलिए उनकी सैलरी और पेंशन का ध्यान केंद्र सरकार की ओर से रखा गया है और मैं इसका अभिनंदन करता हूँ।

महोदय, हमारी लोकशाही जिन चार स्तम्भों पर खड़ी है, उनमें से न्याय व्यवस्था एक महत्वपूर्ण स्तम्भ है। ऐसे महत्वपूर्ण स्तम्भ पर ध्यान देना, उनके अधिकारों और कर्तव्यों का संरक्षण करना पार्लियामेंट की जिम्मेदारी है। इसीलिए इस बिल के माध्यम से सैलरी और पेंशन को अच्छे से रिवाइज़ करने का प्रयास सरकार द्वारा किया गया है, जिसकी मैं सराहना करता हूँ।

महोदय, हमारी मराठी में एक कहावत है कि 'शहाणा मनसा ने न्यायालयाचि पायरि चढू ना।' यह क्यों बताया गया है, इसका पूरा स्पष्टीकरण सम्माननीय सांसद कल्याण बनर्जी जी ने और तथागत सत्पथी जी अपने भाषण में किया है। आज परिस्थिति ऐसी है कि इस देश का कोई भी सामान्य आदमी न्याय व्यवस्था की तरफ जाने में डर रहा है। वहां जाकर सही वक्त पर सही न्याय मिला, इसकी गारंटी उस सामान्य आदमी को आज तक नहीं मिल रही है। इसीलिए डर लगता है कि क्या होगा, कितने बरस लगेंगे।

उपाध्यक्ष महोदय, आज भी सिविल लाइन के कई केसेज़ ऐसे हैं कि पिछले 20-20 सालों से हाई कोर्ट और सुप्रीम कोर्ट में प्रलम्बित हैं। उनको सही वक्त पर न्याय नहीं मिल रहा है। ऐसे वक्त में, जिसे हमने लोकशाही का महत्वपूर्ण स्तम्भ कहा है और जिसे बाबा साहब अम्बेडकर जी ने कहा है, उसके माध्यम से इस देश के सामान्य आदमी को अच्छी तरह से न्याय नहीं मिल रहा है। आज हाई कोर्ट और सुप्रीम कोर्ट में लाखों की संख्या में कई राज्यों के मामले पड़े हैं, क्योंकि वहां न्यायमूर्ति की कमी होना एक बड़ी समस्या है। जो मुकदमे प्रलम्बित हैं, उसका कारण न्यायमूर्ति की कमी है। चाहे हाई कोर्ट हो, चाहे सुप्रीम कोर्ट हो और चाहे डिस्ट्रिक्ट कोर्ट्स हों, सारे कोर्ट में न्यायमूर्ति की कमी है, साथ ही सपोर्टिंग स्टाफ की भी उतनी संख्या में कमी है। अभी यह हो गया है कि जो सांसद हैं या जो विधायक हैं, उनके ऊपर जो मुकदमें लगे हैं, उनको जल्द से जल्द खत्म करने के लिए कई स्पेशल कोर्ट्स अपॉइंट कर दिए हैं। यह जो निर्णय लिया है, वैसा ही निर्णय आम आदमी के मुकदमे जिन न्यायालयों में हैं, उन पर भी निर्णय लेने की जरूरत है। सिर्फ सांसदों और विधायकों के लिए यह करना अच्छा नहीं है। आज सांसद या विधायक हों उनकी तरफ ... \* का देखने का रवैया अच्छा नहीं है। जैसे कि एक बात यह है कि कौन बड़ा है, पार्लियामेंट या ज्यूडीशियरी? उसमें यह साफ है कि आज तक राज्य की विधान सभा और देश की लोक सभा ही सार्वभौम हो सकती है, बाकी दूसरा कोई नहीं हो सकता है। लेकिन दुर्भाग्य से आज न्यायालय में न्यायमूर्ति की जो कमी है, उसके ऊपर सरकार को ज्यादा ध्यान देकर न्यायमूर्ति की भर्ती करनी चाहिए, सपोर्टिंग स्टाफ की भी भर्ती होनी चाहिए। कई न्यायालयों में जो अन्य सुविधाएं होती हैं, चाहे टॉयलेट हो या फाइल्स रखने के लिए अलमारियां हों, कई न्यायालयों में बुरी हालत हो चुकी है। उसकी तरफ भी सरकार को ध्यान देने की जरूरत है।

महोदय, आज मैं आपके सामने सारे सांसदों के मन की बात भी रखना चाहता हूँ। इससे पहले सत्पथी साहब ने भी यह बात रखी है। इस सभागृह में सबसे पहले करीबन 80 प्रतिशत से भी ज्यादा सांसद सामान्य घर से चुनकर आए हैं, सामान्य कार्यकर्ता के रूप में चुनकर आए हैं। मोदी साहब की एक लहर थी। बाबा साहब अम्बेडकर की देन है, इसके लिए आजादी के बाद आज के सभागृह में जो-जो सांसद बैठे हैं। ये सारे सामान्य घर के सांसद हैं। ये अमीर नहीं हैं। आज हालत ऐसी है कि 6 विधान सभा का प्रतिनिधित्व करने वाले हम सब सांसद...(व्यवधान) कहीं 8 भी हैं, कम से कम 9-9 हजार स्कवायर किलोमीटर ग्रामीण इलाका, यह साधारण बात नहीं है। इतनी सारी जनता, 15 लाख

लोगों ने जिनको चुनकर भेजा है, जिन्हें 15-20 लाख लोगों ने चुनकर भेजा है, उनकी तरफ ध्यान देना, उनका काम करना, उनकी सहूलियत के लिए कार्यालय खोलना...(व्यवधान) कार्यालय में स्टाफ रखना, आने वाले लोगों को चाय व खाना देना। उनकी मरम्मत करना...(व्यवधान) ये सारा काम कर्तव्य की भावना से करना...(व्यवधान)

उनकी सेवा अच्छी तरह से करना हमारा कर्तव्य है। मुझे अच्छी तरह से ध्यान है कि आपके नेतृत्व में दो वरुण पहले इस सभा गृह के कम से कम चार सौ सदस्यों ने साइन करके माननीय वित्त मंत्री महोदय के पास एक निवेदन दिया था कि हमें जो पांच करोड़ रुपये एम.पी.लेड फंड के मिलते हैं, उसमें कम से कम 25 करोड़ रुपये की बढ़ोतरी करें, ऐसा निवेदन हमने दिया था। चार सौ सांसदों ने आपके पास निवेदन दिया था, लेकिन उस पर ध्यान नहीं दिया गया। हम यह कहना चाहते हैं कि क्या सांसद बनना एक अपराध है, हमारे द्वारा मांग करना क्या एक अपराध है, क्या हम गलत कर रहे हैं? चाहे पांचवां, छठा या सातवां पे कमीशन हो, उनकी तनखाह बढ़ती जाती है, उस पर किसी का विरोध नहीं होता है। लेकिन लोगों की सेवा करने वाले लोक सेवक के रूप में जब हम काम करते हैं, प्रधान मंत्री जी ने हमें ग्रामसेवक कहा, उनके द्वारा हमें ऐसा कहने पर गर्व है। हम लोकसेवक हैं, ग्रामसेवक हैं, लेकिन हमारी हालत यदि एक भिखारी के जैसी रही तो यह अच्छा नहीं होगा। विधान सभा के विधायक कम से कम दो लाख रुपये तनखाह लेते हैं, हमारे महाराष्ट्र के विधायक प्रति माह पचास हजार रुपये पेंशन लेते हैं। दिल्ली के विधायक दो लाख अस्सी हजार रुपये लेते हैं। लेकिन हम सांसद एक लाख नौ हजार रुपये जो लेते हैं, वह सारी की सारी तनखाह अपने स्टाफ को दे देते हैं, बाकी हम...(व्यवधान) यह जो सारे सदस्यों के मन की बात है, आपके माध्यम से मैं माननीय मंत्री जी से विनती करना चाहता हूँ कि हमारी तरफ सहानुभूति के साथ देखें, ये लोग अपना कार्य करते हैं। एक लोक प्रतिनिधि को सक्षम होना चाहिए, ताकि उन्हें कुछ गलत व्यवहार करने का मौका न मिले। इसलिए इन्हें सक्षम करने की जिम्मेदारी आपकी है।

उपाध्यक्ष महोदय, मन की बात होने के बाद मैं आपके माध्यम से कुछ और कहना चाहता हूँ कि हमारे महाराष्ट्र के कोल्हापुर में हाई कोर्ट की बेंच होनी चाहिए। यह मांग पिछले दस वरुणों से हो रही है। इस बारे में मुम्बई हाई कोर्ट के चीफ जस्टिस आशवासन दे चुके हैं। इसलिए मैं विनती करना चाहता हूँ कि कोल्हापुर में हाई कोर्ट बेंच की मांग जो पिछले कई वरुणों से हो रही है, उसे पूरा करने की तरफ माननीय मंत्री जी को ध्यान देना चाहिए।

इसके अलावा मैं कहना चाहता हूँ कि बोम्बे का नाम बोम्बे की जगह मुम्बई हो चुका है, इस बात को 21 वरुण हो चुके हैं। लेकिन पिछले 21 वरुणों से बोम्बे हाई कोर्ट का नाम मुम्बई हाई कोर्ट करें, यह मांग महाराष्ट्र के विधायकों ने की। महाराष्ट्र की विधान सभा में यह प्रस्ताव पारित किया गया और उसके बाद आपके पास मांग प्रस्तुत की है। माननीय कानून मंत्री जी पिछली बार एक विधेयक लाए थे, जो बोम्बे की जगह मुम्बई, तमिलनाडु आदि से संबंधित एक विधेयक था, उन्होंने उसे वापिस लिया। मैं विनती करना चाहता हूँ कि आप कोलकाता, तमिलनाडु की समस्या को दूर रखें और बोम्बे की जगह मुम्बई हाई कोर्ट का नामकरण करने का जो विधेयक है, वह पारित करने के लिए आप जल्दी से जल्दी विधेयक लाइये, यही विनती करके मैं अपना भाषण समाप्त करता हूँ। धन्यवाद।

**डॉ. रविंद्र बाबू (अमलापुरम):** उपाध्यक्ष महोदय, आपने मुझे बोलने का समय दिया, इसके लिए मैं आपको धन्यवाद देता हूँ। अपनी बात करने के लिए यह बहुत अच्छा मौका है। कल जब बिल का इंट्रोडक्शन हो रहा था तो ट्रेजरी बेंच और अन्य सभी की एक ही वॉयस थी कि एम.पीज. का क्या होगा। आप बताइये एम.पीज. का क्या होगा। मैं समझता हूँ कि हम कम से कम इतना तय करेंगे कि हम सब एक रिजोल्यूशन पास करके पी.आई.एल. के रूप में सुप्रीम कोर्ट में फाइल करेंगे और जस्टिस को बोलेंगे कि सर आप पार्लियामेंट को डायरेक्शन दे दीजिए, तब बढ़ाइये। Article 141 says that whatever Supreme Court says is the law of the land. जब मैं आ रहा था तो किसी ने मुझसे पूछा था कि आज क्या बिल है। मैंने बोला कि सुप्रीम कोर्ट और हाई कोर्ट के जजेज की सैलरीज का बिल है। उसने इन्नोसेंटली पूछा कि आपको उनकी सैलरीज बढ़ाने की क्या जरूरत है। उनके पास खुद की पावर्स हैं, वे खुद भी कर सकते थे, आर्टिकल 141 में उन्हें कांस्टीट्यूशनली एम्पावर किया गया है। They would have increased their salaries by themselves.

They have given you directions so many times and, in compliance of those directions, we have passed legislations here so many times. Then why is this 'salt in the wound'? When we are asking for the salaries of the MPs and you are asking us to approve the salaries of the High Court and Supreme Court Judges, हमारी कंट्री देने की स्थिति में नहीं है। जब हम प्लेन से उतरकर गाँव जाते हैं, डीजल भरवाकर 200 किलोमीटर जाते हैं और रोज 200 किलोमीटर गाड़ी में घूमते हैं। हमारे घर पर लोग आते हैं, जैसे हमारे शिवसेना के दोस्त ने बोला, हम उन्हें चाय पिलाते हैं, कॉफी पिलाते हैं, बिस्किट खिलायेंगे, अगर लंच का टाइम हुआ तो उन्हें लंच खिलायेंगे, अगर कुछ उन्हें जरूरत होगी तो उनकी मदद भी करेंगे। अगर उनकी मदद नहीं की तो वे कहेंगे कि एम.पी. बेकार का आदमी है। एम.पी. तो मंत्री बन गया है तब भी कुछ नहीं करता है।

महोदय, गाँव में सोचते हैं कि एम.पी. बन गया मतलब यह पी.एम. बन गया। यह प्रधान मंत्री के बराबर बैठता है, यह मंत्री जी के बराबर बैठता है। यह क्या बेकार की बात करता रहता है कि पैसा नहीं है, पैसा नहीं है। सर, हमारे पास सच में पैसा है ही नहीं। आजकल घर में भी इज्जत नहीं मिलती है। मैं एक विनती करता हूँ कि मेरी वाइफ एयर इंडिया में एयर होस्टेस है, उनको तीन-चार लाख रुपये मिलते हैं। वह मेरी सैलरी और अपनी सैलरी दोनों को बराबर रखकर बच्चे को समझा रही है कि देखो पापा कितने बेकार आदमी हैं। मेरी बेटी पूछती है कि डैडी आपने एम.पी. बनने के लिए इतनी मेहनत की। आप बोलते थे कि इतने बड़े आदमी बन जाएंगे, आपने बोला कि हमको यह मिल जाएगा, पार्लियामेंट में बैठेंगे, प्रधान मंत्री को देखेंगे, मंत्री को देखेंगे, हम देश के लिए बहुत कुछ कर पाएंगे, आप खुद की सैलरी भी नहीं बढ़ा पा रहे हैं। आज मेरी बेटी भी हमसे सवाल पूछती है कि उनकी सैलरी बढ़ाने की आपको जरूरत क्या है, जब आपकी खुद की नहीं है तो।

महोदय, यह बहुत सीरियस मैटर है। आज तो आपको इस पर कुछ न कुछ बोलना ही पड़ेगा, नहीं तो मैं खुद सुप्रीम कोर्ट जाकर बोल दूँगा कि सर, आपके लिए मैं बिल साइन करके आया हूँ, आपकी सैलरी हमने बढ़ायी है, आप हमारी सैलरी भी बढ़ाने के लिए ऑर्डर दे दीजिए, तब हम कुछ कर पाएंगे। जनता बोलती है कि एम.पी. लोग अपनी सैलरी बढ़ाते हैं।

HON. DEPUTY SPEAKER: If you go to the Supreme Court, your salary may go down also. Be careful.

**डॉ. रविंद्र बाबू :** महोदय, इसीलिए जब मैं सुप्रीम कोर्ट जाऊंगा तो कोट निकालकर जाऊंगा। मैं कोट पहनकर नहीं जाऊंगा, बिना कोट के जाऊंगा।

Sir, there is a principle natural justice – ‘Nemo judex in casua sua’, i.e. ‘nobody can sit in judgment in his own case’. So, we are increasing salaries by ourselves and there may be a judicial dilemma over how we can do it by ourselves. We are sitting in judgment in our own case. Therefore, in order to resolve this dilemma of ‘Nemo judex in casua sua’, I would urge upon the hon. Minister, who is an eminent lawyer, to find a solution to this dilemma. Also, whenever there is a news about hike of MPs’ salaries coming in the newspaper or on TV, एडवर्स रिएक्शन होता है, इतने एडवर्स मतलब एमपीज को गाली तक देते हैं। वे कहते हैं कि इन लोगों को ... \*नहीं है, इन्होंने अपने आप सैलरी बढ़ाई है, ये कैन्टीन में फ्री खाना खाते हैं। कैन्टीन में फ्री खाना खाते हैं, जब ऐसा प्रश्न किसी ने मुझसे पूछा था तो मैंने कैन्टीन की पूरी बायोकेमिस्ट्री निकाली थी। हमने देखा कि कुल दस परसेंट एम.पी. भी कैन्टीन में खाना नहीं खा रहे हैं, मात्र दस परसेंट एम.पी. भी खाना नहीं खा रहे हैं। उस दस परसेंट में भी सिर्फ चाय-कॉफी और जूस पीकर निकल जा रहे हैं। बाकी जो खाना खाने वाले हैं, कैन्टीन में जो फैसिलिटी लेने वाले हैं, या तो वह स्टाफ होगा या विजिटर्स होंगे, सिक्योरिटी आदि के लोग होंगे, लेकिन एम.पी. नहीं है।

पार्लियामेंटी अफेयर्स मिनिस्ट्री को कम से कम यह देखना चाहिए कि एम.पीज. के लिए क्या सच बोला जा रहा है, क्या ... \*बोला जा रहा है। जो लोग हमारे बारे में टीवी में, प्रेस में ... \* बोलते रहते हैं, पता नहीं उनकी हमारे साथ क्या दुश्मनी है, यह समझ में नहीं आता है।...(व्यवधान)

सर, हम बहुत humble beginning से यहां तक आए हैं। यहां पर जो भी आए हैं, मेरे खयाल से 90औं लोग गांवों से ही आए हैं। हमें दो हजार रुपये, तीन हजार रुपये डीज़ल में खर्च करना पड़ता है। एक बार मेरी गाड़ी चलते-चलते रूक गई। मेरे पास उस समय डीज़ल के लिए पैसे नहीं थे, मैंने अपने ड्राइवर से पैसे लेकर डीज़ल भरवाया। ड्राइवर बोलता है कि एम.पी. साहब के पास गाड़ी में डीज़ल भरवाने के लिए पैसे नहीं हैं। यह सच है, यह हकीकत है। I am not exaggerating. Coming to talk of Supreme Court and High Court seriously, as my colleague Kalyan Banerjee sahab has said, the day is very near when there would be direct confrontation as to whether Supreme Court is supreme or the Parliament is supreme. I would definitely and unhesitatingly say that Parliament is supreme, not because we are MPs but because we are the representatives of the people of India, we have been elected by the common man on the street. Common man of the country is electing us and sending us here. We represent the collective mandate of the people. People are supreme as opposed to anybody. Nobody in the country is more supreme than the people of the country, not even the Supreme Court. The mandate of the people of the country is

vested in Parliament and the Parliament is represented by MPs. Therefore, we are powerful, we are sovereign, we should prevail upon any other institution of the country including the Supreme Court. This is my personal feeling, and this is the feeling of my party TDP also.

The Supreme Court, while arrogating powers to itself, sometimes passes some orders. As you have said, Mr Deputy Speaker, Sir, they legislate, they execute, and they also do everything including invoking contempt provision on those who do not execute their orders. Contempt of court is the biggest sword hanging on the head of the Executive. If they do not do something, it would be contempt of the court. If they do also there are problems. ओमीशन, कमीशन, दोनों के लिए कंटेम्प्ट है। हम 'न घर के हैं, न घाट के' हैं। हम क्या करेंगे? इस सुप्रीम कोर्ट के चक्कर में कई बार यह डर लगता है कि हम क्या बोलें? अगर जजों की सैलरी के बारे में हम कुछ बोलेंगे तो क्या पता हमारे ऊपर कोई कंटेम्प्ट का केस न लग जाए! लेकिन, किसी ने मुझे बता दिया कि कोई बात नहीं, पार्लियामेंट में जितना बोलो, अपनी मर्जी से बोलो, कुछ नहीं होगा। इसलिए मैं आज खुल कर बात कर रहा हूँ। लेकिन, सुप्रीम कोर्ट को मैं अपने भाई लोगों की तरफ से, पूरे लोक सभा की तरफ से यह विनती करता हूँ कि Please do not legislate upon social issues. Please pass orders only on criminal or civil issues, do not touch the social issues. On social issues, we are the authority. We are privy to people's sufferings, we see the peoples' sufferings and problems with our own eyes and not through the press. We go to the people, we go to places where the people are living. We see what is their condition, what is their state of health, their poverty levels, unemployment, etc. We are the correct persons to legislate on these issues.

Assuming, not admitting, that we have made a wrong legislation in the Parliament, there is ample power given to the people to call us back after five years. But if the Supreme Court passes a wrong judgment, where is the way? Where shall we go? Constitution says, 'You impeach him,' उन्हें निकाल दो। पर, क्या अभी तक किसी को हमने निकाला है? क्या कभी ऐसा हुआ है? कभी ऐसा नहीं हुआ है और हो भी नहीं सकता।... (व्यवधान) सुप्रीम कोर्ट के जज को निकालना इतना आसान नहीं है। हमने कई बार देखा है कि कितनी बार यह स्टार्ट हुआ है, पर बाद में वह मामला ड्रॉप हो गया। इसलिए, सुप्रीम कोर्ट के जजों के केस में एकाउंटैबिलिटी भी एक अलग प्रॉब्लम है। उनकी एकाउंटैबिलिटी होनी चाहिए। उदाहरण के लिए, हमारे एक साथी ने सजेस्ट किया है कि लाइव टेलीकास्ट होना चाहिए। लाइव टेलीकास्ट होने से उन्हें क्या प्रॉब्लम है, यह मेरी समझ में नहीं आ रहा है। जब पार्लियामेंट में इतना लेजिस्लेशन होता है, and everything is live telecast in the country. Supreme Court is an organ of state in the country.

Whatever is happening in the Supreme Court should also be watched. Justice should not only be done; justice should also appear to have been done. अगर किसी ने ऑर्डर दे दिया है,



स्पिकिंग ऑर्डर दे दिया है in what circumstances was the judgement passed? We should be privy to the judgement. This is another feeling about this Bill.

The extra burden accruing or accruable after this increase in the salaries will be borne by the State Government इसमें आपने लिखा था। Andhra Pradesh is a just born State, a just created State having huge revenue deficit. इसको कहने के लिए कुछ भी वर्ड्स नहीं हैं। We are really handicapped in a true sense. यदि हम अपने ऊपर इतना बर्डन डालेंगे तो पता नहीं क्या होगा। At least to that extent, I should oppose this Bill. But being a partner of the NDA Government and being the friends of the Government, we will definitely support this Bill. But let us also make a resolution to control the judges and introduce some amount of accountability for their wrong judgments. Suppose civil servants make wrong decisions, for omission and commission they are punishable and prosecution can also be launched against the civil service officers. Why not the same for the judges? Why is there immunity for the judges? Because of their judgements, justice delayed is justice denied. Of course, there is another thing that justice hurried is justice buried. एक तरफ तो जस्टिस करते नहीं हैं, अगर करते हैं तो पच्चीस साल में पूरा उल्टा करते हैं। इसे कौन अकाउंटेबल करेगा, इस प्रकार के राँग जजमेंट के लिए किस प्रकार से पनिशमेन्ट मिलनी चाहिए? आप इसे बताइए। जब कोई ऑफिसर गलती करता है तो उसको पनिशमेन्ट मिलती है। Judges should also be punished like a normal officer. Therefore, my sincere advice is that we should have an all India judicial service. That will bring about clarity; that will bring about transparency. Then only they will come under Civil Service conduct rules. Otherwise, there will be no conduct rules and they will be arrogant as ever; they were earlier and they will be in future also. As my friend Shri Kalyan Banerjee told, days are very near when we will be confronting the judiciary directly. Judiciary is almost at the gate of the Parliament. हम जो भी लॉ पास करेंगे, हो सकता है कि वे लोग अपने आप को दिखाने के लिए सैलरी को ही खत्म कर लें। Just to prove that they are superior to Parliament, they may say, “What are the salaries you are hiking?” Who knows an instance may come when they may even nullify this institution of Parliament? If they ask us, “Who are you to increase our salaries?” what answer do we have? Suppose we have legislated upon increasing the salaries of the judges and if they humiliate us by saying, “What you have done is unjustified; it is leading to unjust enrichment of the judges”, what will we do? Therefore, Parliament should be declared once and for all supreme and the supremacy of Parliament should prevail for ever, now and in future, in order to have a better administration in the judiciary also.

On behalf of Telugu Desam and Shri Chandrababu Naidu, we support this Bill with these observations. Thank you.

SHRI KONDA VISHWESHWAR REDDY (CHEVELLA): Hon. Deputy Speaker Sir, my father was a High Court judge. He was the Chief Justice of the Bombay High Court. My mother, who is 87, still receives pension. So, I will try to speak objectively and I hope I will not be treated as a party with vested interest.

Therefore, I would just like to present our case by sharing only facts. Law students just graduating from NALSAR and NLU, Delhi get Rs. 12 to 14 lakh average salary and exceptional students get Rs. 20 to 30 lakhs. Another fact we all know is that eminent lawyers charge between rupees two to three lakhs per appearance and their annual incomes very often cross tens of crores of rupees. In India, a High Court judge's salary is Rs. 90,000 and a Supreme Court judge's salary is Rs. One lakh.

Even a middle level executive in the organised sector earns more than that and a 20-year old child who is not even allowed to appear before a judge gets Rs. 20 lakh. In the USA, it is more than a quarter million dollars. In the UK, it is even more and they feel it is too low. In Pakistan, it is two or three times more than what a High Court Judge in India gets. So, it needs to be raised.

I want to talk about a very eminent jurist, Hormasji Maneckji Seervai. He was an Advocate General of Bombay and Maharashtra High Courts from 1957 to 1974. He was one of the most respected jurists India ever had. The International Bar Association recognised him as the "Living Legend of Law". He wrote several books on the Indian Constitution. Lord Denning, the doyen of all judges himself, said, "He is one of the most learned persons I have met." He was known as 'the lion'; in Parsi, I think, 'seervai' means 'lion'. But he was also known as the ... \* of the Indian Constitution. We talk about the interpretation of the law. He did not allow the judges to go too far. He would point out and criticise the judges and their judgement even when he was a practising lawyer.

He lived a simple life and he was close to his mother. He hated travel and he served the people. He did not charge exorbitant fees. ... (*Interruptions*)

SHRI RAVI SHANKAR PRASAD: Sir, Shri Hormasji Seervai was a doyen of law and was highly respected; to call him a ... \* may not be proper. ... (*Interruptions*)

HON. DEPUTY SPEAKER: That will be expunged.

... (*Interruptions*)

SHRI KONDA VISHWESHWAR REDDY: Sir, I am not calling him that way. ...  
(*Interruptions*)

SHRI RAVI SHANKAR PRASAD: But this is going on record. ... (*Interruptions*)

SHRI KONDA VISHWESHWAR REDDY: Here, it is not an insult. ... (*Interruptions*)

SHRI RAVI SHANKAR PRASAD: It is going on record in Parliament. Please put it properly. He is really a doyen of law in India. That is why I am saying this. ... (*Interruptions*)

SHRI KONDA VISHWESHWAR REDDY : I agree with you absolutely. If it meant something wrong, I do not mind if it is taken back. ... (*Interruptions*)

He was an ardent protector of the law. He was the ‘watchdog’, if I may use that expression, of the Constitution of India in the courts. ... (*Interruptions*)

He served the people. He did not charge exorbitant fees. He was both against the exorbitant fees charged by the lawyers and the low salaries of the judges. When an eminent lawyer asked him what was his objection to charging high fees when a client was willing to pay and able to afford, he said, ‘If a man is willing to be robbed, will you be a thief?’ That was his character.

Homi Seervai inspired many of today’s eminent lawyers. He also criticised judges and judgements. He was offered various positions in the bench – in High Courts and the Supreme Court – and even the position of Attorney General of India. He declined these positions not because the salary was low – he did not charge exorbitant fees anyway – but he preferred to contribute through critical analysis of the higher court judgements.

Though he was critical of some of the judges, on the subject of salaries of judges, Homi Seervai observed: “It may be said that ours is a poor country and cannot afford to pay high salaries to judges. I would like to record my opinion that only an extremely wealthy country can afford the luxury of an ill-paid judiciary. The correct remedy is to make a judicial career sufficiently attractive for lawyers of the highest standing.”

The revision of salaries is long overdue since 2006; since then, the salaries of Central Government employees has been revised two times. So, it is about time.

There is a humongous number of cases pending. There are more than 54,700 cases pending in the Supreme Court; more than 34 lakh in High Courts other than the Allahabad

and Jammu and Kashmir High Courts; in the lower courts, it is 2.6 crore.

In terms of vacancies, there are a total of 395 vacancies. In my combined State, out of the allocated 61 judges for both Telangana and Andhra Pradesh, we have only 31 judges.

Justice is truly delivered when it reaches the poorest. NALSAR which provides free legal service was given only Rs. 213 crore last year; now it is reduced even further; and the funds are coming slowly. I request the Minister to look into it and release the funds which will help the poor.

One of the basic requirements of quality judicial service is to have proper infrastructure. The Union Budget allocation this year is Rs. 1,744 crore, a mere 0.4 per cent. To a large extent the underperformance of the judiciary could be attributed to this low monetary allocation.

Many Members have talked about justice being delayed. We need to bring about reforms about justice being delayed. I would once again like to request the Government for separate High Courts for Andhra Pradesh and Telangana. We have been given repeated assurances on the floor of the House by the Law Minister, the Minister for Parliamentary Affairs and the Home Minister. The High Court of Chandigarh was formed in one day. The High Court of Uttarakhand was formed in one day. Jharkhand High Court was formed in the same year. We have been promised under Section 31 of the State Reorganisation Act that the existing High Court at Hyderabad shall become the High Court of Telangana. I once again request the Government to treat the separation of the court as an urgent matter.

In the Memorandum of Procedure, MoP, the criterion for elevation of lawyers to the Bench is that they should have practised with high income and they should have paid Rs.7 lakh as income tax. Actually, it is very good because we know most of the good lawyers get much higher incomes. So, instead of an income tax evader tomorrow becoming a judge, this criterion is good. Probably, I would say that the limit may be increased from Rs.7 lakh. But for the Scheduled Caste and Scheduled Tribe lawyers this limit should be relaxed so that they also have a chance of getting elevated to the Benches.

Lastly, Sir, I live with my mother and for her the pension amount does not make a big difference but for many others whose children do not live with them, it makes a big difference. More importantly, for the judges it is more than money. It is an

acknowledgement. It is a sense of security that the nation will take care of their families even after they have gone and that they can work without the fear of financial insecurity for their families long after they have gone.

We, on behalf of Telangana Rashtra Samiti support the hike in salary of the judges. I hope that it is passed unanimously and implemented speedily. Thank you, Sir.

SHRI A.P. JITHENDER REDDY (MAHABUBNAGAR): Sir, we have made a very decent speech on the Bill. So, we would like to see the bifurcation of the Andhra Pradesh High Court happening very soon. We have not criticised any judge or entered into any of the problem areas.

DR. A. SAMPATH (ATTINGAL): I would like to express sincere thanks to you for giving me an opportunity to participate in the discussion on the High Court and Supreme Court Judges (Salaries and Conditions of Services) Amendment Bill, 2017. I think the year may become '2018'.

First of all, Sir, I support this Bill. My Party, CPI(M) supports this Bill. Of course, there are political differences between the Party of my learned senior, the hon. Law Minister and the Party which I represent. We need good lawyers, good judges and a good judiciary which should be a role model for the nation and for the whole judiciary of the world. We want to make them much better than their present position. I will not take much time.

Deputy Speaker, Sir, I can address you as 'Sir', but I cannot address a judge in the court of law as 'Sir'. The hon. Judge says, 'address the court in a proper manner'. He or she demands that. 'My Lord, I did not address you, 'Your Honour' but even in a district court I have to address the judge as 'Your Honour'. While addressing in a High Court I have to say, 'Milord'. The judge then says, 'Yes, of course, I am your Lord'. It comes from his mind. As the former President of the United States once said, 'you read my lips', it is just like, 'I am your Lordship'.

Why all these colonial baggage? Even during the scorching heat, the advocates are bound to wear the black robes. Why? Of course, we all know that there should be some uniform for

the advocates and for the practicing lawyers to distinguish them from others. As a practicing lawyer, from deep in my heart, I would like to say that I do not want to go to the court, either as an accused or as a plaintiff, or even as a witness. I went to the court because it was my daily bread and butter. What happens in court? A junior lawyer has to pray for time always. A person, who may be a professional, a doctor or an engineer or whoever he may be, is a citizen of India who is waiting and languishing outside the court without having any facility. Of course, we are talking about the Swachh Bharat. But, he has no right to attend to the nature's call in a court. They have to stand outside. They are not provided even a chair outside. In the court, even an old man is forced to stand for long hours, if he is a witness. He is not at all allowed to sit. A poor man coming from quite a long distance for the first time or a lady coming to the court, witness these things.

I agree that the court proceedings should be telecast. Once a question was raised on the Floor of this House regarding telecasting of the court proceedings. Then, the hon. Minister replied that it is a costly affair. The hon. Supreme Court made an observation that let it start from the District Courts. Why it should not start from the top? It should start from the top. When people talk of democracy, they look at us, they look to the Chair, Executive and MPs that they have elected. Then only they are concerned about their MLAs, Zila Parishads and Gram Panchayats.

HON. DEPUTY SPEAKER: Sampath Ji, what we have started in the Lok Sabha and the Rajya Sabha, it has not been started in the Assemblies and Panchayats. Therefore, as suggested, the top level should start first.

DR. A. SAMPATH : Let us start from the top level. Deputy Speaker, Sir, I do hope many of our Lordships maybe watching the Lok Sabha T.V. today. Maybe, many of them are watching it for the first time in their lives because it is regarding the increase in their salaries and allowances. Of course, it may be a part of the parliamentary duty.

HON. DEPUTY SPEAKER: No, not for that. They may be watching it to know as to what is going on. That may be the reason. They are not watching it for the salary. That is not correct.

Now, you have said about the facilities. The Judges may know about it. Therefore, they are happy that you are raising the facilities that they require. For that, they may be watching it, but not for the salary.

DR. A. SAMPATH : Through you, I may be permitted to take up certain matters to the hon. Minister so that he can also convey the feelings to the Judiciary. Sir, why the Judiciary is still hesitant for the decentralization? We all stand for decentralization. It is this House which initiated the discussion and we passed the Panchayati Raj Act and the Nagarpalika Act. Quite a lot of powers have been transferred to the lowest ebb. I would like to invite your attention regarding the Seat of the hon. Supreme Court. Article 130 specifically says about the Seat of the hon. Supreme Court. But, till now, the hon. Supreme Court is here in Delhi. Why the hon. Supreme Court does not have a Bench in South India? The hon. Supreme Court does not establish a Bench in the North-East. North-East is also a part of India. Why the hon. Supreme Court does not start a Bench in Western India? It is my knowledge and I can share with you. Even our hon. Minister of Law and Justice, Shri Ravi Shankar Prasad, also knows there are quite a lot of very senior Supreme Court lawyers who charge Rs. 50 lakh per day. I am not mentioning the names. Our forces come with aircraft carrier, frigates, destroyers, submarines and gun shots. Like that senior lawyers are accompanied by other lawyers, junior lawyers and the people to assist them, the clerks, etc. It is not the matter which is being considered in many courts but who comes for whom and who represents whom is considered. You show me the person, I will show you the rule.

Here in this House, many of my learned colleagues had raised the issue of working class and labour. A man has only one life. After working for decades, at the terminal stage a person who has sacrificed his whole life is not given justice. I am not mentioning the amendment to the Payment of Gratuity Act which even the Parliament has very carefully forgotten. We have now taken up the issue of Salaries and Allowances of our lordships.

Now quite surprisingly ten minutes back I received the second Supplementary List of Business regarding Supplementary Demands for Grants (Discussion and Voting) – Third Batch for 2017-18. You are a worker. You are a labourer. You are a human being. You can be outside the gate. You can knock at the gate but your knock will not be heard and the

door will not be opened for you. This is how people feel that the doors have been shut on their faces.

There have been criticisms that the judiciary has become ...\*. I hope the hon. Minister would also agree because these types of scathing criticisms we have heard in the corridors of the Supreme Court itself. It has become a rich man's game. They have become commercial courts. Now business class judiciary is there. There is judiciary for the passengers and persons travelling in unreserved bogeys.

Our courts lack infrastructure. Even one per cent of the total budget of the Government of India is not allocated to the judiciary. Many a times the Chief Justice of India has requested about it. I do not know whether he has wept and tears have fallen down.

As per the information which I have received, approximately 6000 vacancies are there in the lower judiciary. In Bihar, there are 45 per cent vacancies; in Uttar Pradesh – 42 per cent vacancies; in Delhi – 40 per cent vacancies; in Madhya Pradesh – 37 per cent vacancies; in Tamil Nadu – 27 per cent vacancies; in Gujarat – 26 per cent vacancies; in Karnataka – 25 per cent vacancies; in Meghalaya – 60 per cent vacancies; in Mizoram – 52 per cent vacancies; in Manipur – 37 per cent vacancies; and in Sikkim – 35 per cent vacancies.

Sir, it is a pity that there are 22.7 lakh pending cases in India. It is the largest number of pending cases in the whole world. We are having such an excess baggage with us and of these, 25 per cent cases are more than five years old.

Then many of the High Court Judges are Acting High Court Judges. We do not have an 'Acting Law Minister' here. He is our Law Minister and we are proud of him. But in Kolkata, there is Acting Chief Justice; in Hyderabad – Acting Chief Justice; in Manipur – Acting Chief Justice; in Himachal Pradesh – Acting Chief Justice; in Jharkhand – Acting Chief Justice; in Karnataka – Acting Chief Justice and in my own State, Kerala also it is no different.

HON. DEPUTY SPEAKER: Mr. Sampath, they are more active. That is why, they are 'Acting'. ... \*

DR. A. SAMPATH : Regarding the National Judicial Appointments Commission, we had a threadbare discussion in both the Houses. Cutting across party-lines, we proposed certain amendments and after that we passed a very landmark Constitutional Amendment.



It has been struck down by the Supreme Court. It is just like an ordinary man's language – we know much better than you. We are the judges; we are the jury and we are the executors. But at the same time we, as Members of Parliament, are fulfilling a duty cast upon us by the Constitution of India, as I understand, as enshrined in Schedule II. Of course, I agree that they should get the due share and their salaries and allowances should be increased. But, to whom are they accountable? We are accountable not only to the electorate but also every time we are accountable. Everyday there would be TV shows, not news, where the Ministers are grilled; the Members of Parliament are grilled; the politicians are grilled. Trials happen in the studios of the media houses. Let the media barons be happy. They can say that you rule the nation.

Sir, through you, I would like to ask a question to the hon. Minister. I would like to know whether the provisions of the Right to Information Act are applicable to the members of the Judiciary. I would like to know whether a person can get details about any of the judges, whether be it of the Supreme Court or of the High Court. The provisions of the RTE are not applicable to them. You have every right to ask questions to the Executive; the Government, the 'State' but you cannot ask anything about them. Of course, I am proud of the Judiciary because at the end of the tunnel there is a ray of hope in the form of the Judiciary. Many of the judges might have worked day and night. They might have burnt the midnight oil and are very brilliant judges.

Sir, I would like to ask the hon. Minister as to how many women judges are there in the High Courts and the Supreme Court. Our hon. Speaker is a lady. Our Secretary-General also is a lady. We have a quite a few of the lady reporters and there are lady Members in this House.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD): Sir, the distinguished Secretary-General was the former Law Secretary of India. I think, that is also need to be recorded.

DR. A. SAMPATH : Sir, if the judges say that men are wiser than women, then with all respect I may be permitted to disagree with my learned friends.

SHRI MOHAMMAD SALIM (RAIGANJ): With more number of women judges, maybe, pendency would be less in the courts.

DR. A. SAMAPTH : It is because they understand the pain. They know the pain of the poor people.

What about the persons belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes? The Bill regarding according constitutional Status to National Commission on Backward Classes is pending in this House. How many judges are there from these communities in the High Courts and the Supreme Court? How many women judges are there in these courts? It is a patriarchal society; an all men world. Half of our population consists of women. If men folk says that they know everything about women and therefore they make rules, then with all humility I may be permitted to disagree with them. There should be some kind of representation. I am not saying reservation. Adequate representation should be given to women and people from marginalised sections like the Scheduled Castes, the Scheduled Tribes and the people from Other Backward Classes. We should strike a balance.

Sir, our courts are working with less than 60 per cent of their total strength. The Members of the Standing Committee on Personnel and Public Grievances and Law and Justice visited certain places. I am mentioning this in this House, otherwise if I had spoken about this outside this House, then I could have been subjected to contempt of court.

It may be a cognisable offence; a non-bailable warrant may be issued and I may be put behind bars just because the court can say anything. But here, I am protected and insulated because of the Constitution of India and because of you, Sir.

Certain lower level courts like the criminal courts, the mofussil courts, etc., are working in small rooms in some places. When we enquired about them, we came to know that these rooms were previously used as toilets. It is just like toilet courts. Last year, it was a toilet and this year, it is a Magistrate Court. Last year, it was a bathroom and this year, the bathroom has gone but a new judicial officer has taken charge there.

Here, lakhs and lakhs of advocates were on rolls and not on robes. When the Bar Council of India took a decision to get the details of the advocates who are doing the actual

practice, the number went down to 50 per cent. It means that quite a lot of brilliant people, young boys and girls, do not want to come to this profession. We are not at all attracting the brilliant boys and girls to this profession. At the same time, many of our judges say that their retirement age should be increased because of the longevity of life. But our younger generation is much wiser and much brilliant than we people. You are shutting the door on their faces. It is just like saying that I am retired but I am not at all tired and so, you put me somewhere.

For the Supreme Court judges, there should be some type of legislation. This House should initiate some legislation for them. If we are increasing the retirement age, it should be decided that they should not take up any other occupation or any other engagement. On the one side, if they are demanding for increasing the age limit. ... (*Interruptions*) Sir, I am not arguing any case. I will conclude in two minutes.

It was in the news and I may be permitted to quote from a news report. It is said here as: "The judges of the Supreme Court and the 24 High Courts may soon get a fatter pay packet as the Union Cabinet is likely to consider a proposal in this regard on Wednesday." This is an old report. The then Chief Justice of India – I am not mentioning his name – had written to the Government in 2016 seeking a hike in salaries of Supreme Court and High Court judges and that the High Court Judges and the Supreme Court Judges Salaries and Conditions of Service (Amendment) Bill may come up in the winter Session of the Parliament. He is exactly right because this may be the last day of winter Session of the 16<sup>th</sup> Lok Sabha as tomorrow we will be chanting *Vande Mataram*. Tomorrow may be the last day of the winter Session of the Lok Sabha.

HON. DEPUTY SPEAKER: In 2018, we will be having the winter Session in November-December. Please conclude now.

DR. A. SAMPATH : Sir, I am in the process of concluding. We are not only increasing their salaries and allowances but we are giving them with retrospective effect also. When we do this to our judiciary, we know that it has to be done and they have their own constitutional duties to fulfill and we are also doing our constitutional duty. At the same time, this august House has a paramount constitutional duty and that duty is towards the people of India. Some of our Members say regarding the MPs salaries and all that but I am not mentioning about it. The Constitution specifically states about it in article 106, Schedule VII. It says about the

prerogative of the Parliament. So, do not worry about it. But at the same time, we need not mix both of them as we are engaged in a legislative process.

My request is, the All India Judicial Service should come into effect and they should be accountable also. We cannot let them loose. Executive is accountable to the Legislature and the whole Legislature is accountable to the people. We are also scrutinized by the Judiciary. I am not saying that the Parliament is supreme and neither is the Judiciary supreme. The Constitution is supreme. We are all deriving powers from the people and it is for the people, by the people and of the people. The Constitution is drafted by the people, with due regards to Babasaheb Ambedkar.

There is no question of any tug of war; there is no question of any clash of interest between the Parliament and the judiciary. In judiciary there have been towering personalities who stood like the light house. When the whole society was in dark, there were legal luminaries who have shown the light.

In the appointment of Supreme Court judges, why no jurist has been appointed so far? We all study books written by various eminent jurists. We quote them also. We quote them in the courts, including the Supreme Court. But no jurist has been inducted in the Supreme Court. We always have a much better bar. From the bar comes the bench. Of course, there is promotion from the lower judiciary to the Supreme Court. But at the same time, what about jurists? We are forgetting jurists. So, this also has to be taken into consideration.

Passing of this Bill should not be termed by anybody as an appeasement of the judiciary. It is not appeasement of the judiciary. The Parliament is fulfilling its constitutional duty. We are doing our constitutional duty.

Regarding decentralization of powers, I would request the Minister, through you, to establish more permanent benches of the High Courts. Even my friends from Telangana were demanding establishment of a permanent High Court. They are the products of a new State. So, they should get a new High Court bench. The centralization of powers still exists as part and parcel of the colonial tradition. Thank you. *Vanakkam*.

SHRI VARAPRASAD RAO VELAGAPALLI (TIRUPATI): Thank you very much Sir. We happily endorse the increase of salaries of the High Court judges and the Supreme Court judges. In fact, as Members who spoke earlier were saying, it is not necessary that it should come here every time. A precious thing like this need not come here every time. It holds

good for the parliamentarians also. I think it should be streamlined so that whenever there is a salary increase for the Government servants, I think it should be done automatically.

I think this discussion is extremely unsavory and unparliamentary according to me. I think it is not in good spirit that we discuss so much on an issue like this. I think we are losing sight of their pension. I think the pension that they are drawing is much higher than any other Government servants. I would request the hon. Minister to kindly look into this. Usually the Government servants' pension is a little less than or more than the half of their salary. If they work for one year, their increase is Rs. 16,000 plus whereas poor Members of Parliament after working for five years get just Rs. 10,000. So, kindly have a re-look into this. There need not be such a huge difference.

The delay in increasing the salaries of the MPs is very unfortunate. Are you afraid of the Press? The Committee has recommended it very strongly.

Just as we give increase of salary and allowances to judges with retrospective effect, we should do the same for Members of Parliament also. We should consider this aspect seriously.

Then, there is a lot of cases pending in various courts of India and the number of cases pending is approximately 30 lakhs across the country. There are lots of vacancies of the posts of judges in various High Courts of our country and the vacancy is approximately 40 per cent to 60 per cent in different High Courts. The hon. Law Minister is very proactive. So I request him to look into this matter and do something to reduce the pendency of cases in various courts and also take steps to fill up the vacant posts of judges.

The legal assistance provided to the under-trials is very poor. Most of the under-trials belong to the Scheduled Castes, Scheduled Tribes and minorities. The reason why they are languishing for long in jail is that these people are not able to engage good advocates to plead their cases. I visited the Nagpur prison in my capacity as a Member of the Standing Committee. Dr. Sampath was also with me during that visit and his experience is also the same. In Nagpur prison I have interacted with 25 under-trials and all of them, without exception, belong to either the Scheduled Castes or the Scheduled Tribes or minorities. They are all languishing in jail as under-trials for more time than the period of punishment which they would have got, had their cases been heard on time. They all belong to the poorest of the poor sections of society and they are not getting proper legal assistance through NALSA.

Then, there is a news report that the highest number of death penalties is awarded to those under-trials who belong to these poorer sections of society. So, we have to evolve a mechanism by which these poor people get proper legal assistance to fight their cases. I would request the hon. Law Minister to kindly look into this issue so that legal assistance is made available to these under-trials who belong to the weaker sections of our society. I would like to suggest here that after 90 days of their imprisonment, every under-trial prisoner should invariably get the assistance of an advocate from NALSA as they are not able to get bail and they are not even able to pay the fine and surety to get released from the prison.

Sir, I now come to the aspect of providing reservation in the Judiciary. When we can have reservation in Government services, why should the Judiciary be an exception? There is all the more reason for reservation in the Judiciary as more and more judgements are parochial in nature these days. The marginalised people are suffering due to this problem because there is no proper representation of the Scheduled Castes, the Scheduled Tribes and the minorities in various courts. Therefore, if the Government really wants to address this issue, it should form a Committee to address this problem and the Government should also create an All India Judicial Service.

HON. DEPUTY SPEAKER: Please conclude now.

SHRI VARAPRASAD RAO VELAGAPALLI : Sir, kindly give me some more time as it is a very important issue.

We have been asking for reservation in the Judiciary for the last 70 years. This is an extremely important matter and this should be considered.

When it comes to the supremacy of the Legislature and the supremacy of the Judiciary, both are important. All of us look up to delivery of justice. The last resort of any individual including the Prime Minister is the Supreme Court. Therefore, under no circumstances, the supremacy of the Judiciary should be brought down. In fact, the Legislature, the Executive and the Judiciary as enshrined in the Constitution should be respected. All are equal. Nowadays, there is hate politics and community politics going on. So, the supremacy of the Judiciary is very important. Some excellent judgments have come from the Supreme Court *suo motu*. Therefore, the supremacy of the Judiciary should be respected. Under no circumstances, the supremacy of the Judiciary should be lowered.

However accountability and transparency is also very important. But there is no alternative mechanism. Therefore, the hon. Minister should form an Expert Group or a Committee to evolve a mechanism to make the Judiciary accountable, to bring in transparency and to bring down the pendency of cases. Once such an Expert Group is formed, all these things would be done by the Supreme Court and the High Courts. The Committee should advice on the accountability and reduction of pendency of cases and transparency. The Parliament can pass orders, and the courts will implement them. So, an alternative mechanism is very important.

Sir, my State of Andhra Pradesh is the youngest State of our country. I would request that a separate High Court may be set up in Andhra Pradesh immediately.

With these few words, I conclude. Thank you.

**श्री राजेन्द्र अग्रवाल (मेरठ)** : माननीय उपाध्यक्ष महोदय, आपने मुझे उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2017 पर बोलने का अवसर दिया, इसके लिए मैं आपका आभारी हूँ।

मैं इसका प्रारम्भ केंद्रीय कानून एवं न्याय मंत्रालय की रिपोर्ट से कर रहा हूँ। इतने लोगों के कहने के बावजूद मैं इस बात को बोल रहा हूँ कि इस रिपोर्ट के अनुसार देश भर के अदालतों- निचली अदालतों, जिलास्तर की अदालतों, उच्च न्यायालयों और सर्वोच्च न्यायालय में लगभग दो करोड़ साठ लाख वाद लम्बित हैं। यदि एक करोड़ परिवारों में औसतन संख्या पाँच मानी जाए, तो लगभग 13 करोड़ लोग लम्बित वादों से पीड़ित हैं। यह आँकड़ा कानून एवं न्याय मंत्रालय का है।

अभी यहाँ पर रिक्तियाँ के संबंध में भी बात की गई। उसी रिपोर्ट के अनुसार इस समय कुल 6379 पद खाली हैं। सुप्रीम कोर्ट में छह, उच्च न्यायालयों में 389 और निचली अदालतों में 5,984 पद खाली हैं। लेकिन, सवाल यह है कि जो पद खाली हैं, जिनके विवरण हमारे साथियों ने दिये हैं, तो लम्बित वादों की संख्या भी बढ़ेगी। जजों की संख्या तो कम है, इस संबंध में, हमारे जो कानून राज्य मंत्री श्री पी.पी. चौधरी हैं,

उनके अनुसार कानून मंत्रालय ने वरेन 2016 में उच्चतम न्यायालय के चार, उच्च न्यायालय के 14 मुख्य न्यायाधीश व 126 अन्य जजों की नियुक्ति के कोलेजियम के प्रस्ताव को मंजूर किया था, जो पिछले एक दशक में सब से ज्यादा नियुक्तियों का रिकॉर्ड है। वरेन 2017 में उच्चतम न्यायालय के पाँच, उच्च न्यायालय के आठ मुख्य न्यायाधीश तथा 115 अन्य जजों की नियुक्ति की गई थी। इसके बावजूद इतनी पेंडेंसी है? इस विषय में हमारे कानून मंत्रालय का यह कहना है कि मौजूदा समय में उसके पास उच्चतम न्यायालय से किसी प्रकार का कोई प्रस्ताव लंबित नहीं है।

माननीय उपाध्यक्ष महोदय जी, मैं इस बात की चर्चा इसलिए कर रहा हूँ, क्योंकि मुझे लगता है, और साथ ही मेरे कई विद्वान और योग्य मित्रों ने भी इस बात का यहाँ उल्लेख किया है। इन बातों का संज्ञान लेते हुए तथा पूरी कानून व्यवस्था को री-विज़िट करते हुए संसद ने जो कानून पास किया था, जिसे नेशनल ज्युडिशियल अपॉइंटमेंट्स कमीशन ने रिक्मेन्ड किया था, मैं उसका यहाँ जिक्र करना चाहता हूँ कि उसी प्रकार का दृष्टिकोण न्यायालय ने अपनाया है। मैं न्यायालय के इस दृष्टिकोण से अपनी असहमति व्यक्त करता हूँ।

इस संसद और यहाँ उपस्थित माननीय कानून मंत्री जी को इस संबंध में आगे बढ़कर जल्द से जल्द इसे री-विज़िट करने की आवश्यकता है। आज एक आम व्यक्ति न्याय पाने के लिए दर-दर भटकता है। उसके अंदर न्यायालय के प्रति एक विश्वास रहता है। कई बार यह देखा जाता है कि उस व्यक्ति को न्याय नहीं मिलता है। इसके लिए यह कहा जाता है कि- 'Justice Delayed, Justice Denied'. इस प्रकार के केसिज़ दुनिया भर में देखने को मिलते हैं। इससे अपराधियों को संरक्षण मिलता है। आज हमारे देश में जेलें भरी हुई हैं। यह एक अलग विषय है, जिसके बारे में मैं यहाँ चर्चा नहीं करना चाहता हूँ।

कुल मिलाकर यदि हम अपने देश में न्याय व्यवस्था ठीक नहीं कर सके, तो निश्चित रूप से दुनिया के सब से बड़े लोकतंत्र की संपूर्ण न्याय व्यवस्था के प्रति लोगों में जो आस्था है, उस आस्था का हास होगा। उस आस्था का हास इतना बड़ा होगा कि बाद में उस डैमेज को कंट्रोल नहीं किया जा सकेगा।

इसी क्रम में मैं उत्तर प्रदेश की स्थिति के बारे में यहाँ चर्चा करना चाहूँगा। मैं अपनी बात संक्षिप्त में पूरी कर दूँगा। मैं ज्यादा समय नहीं लूँगा। उत्तर प्रदेश में न्यायालयों में जो लंबित मामले हैं और वहाँ जजों की जो संख्या है, वह भयावह है। इस समय उत्तर प्रदेश की अदालतों में 60 लाख से ज्यादा मुकदमे लंबित हैं तथा जजों के खाली पदों की संख्या 1344 है। इसमें अकेले इलाहाबाद उच्च न्यायालय में जजों की स्वीकृत संख्या 160 के मुकाबले सिर्फ 109 जज कार्यरत हैं। वहाँ 51 जजों के पद रिक्त हैं। इन रिक्त पदों का परिणाम यह है कि उत्तर प्रदेश में पूरी न्याय व्यवस्था की स्थिति खराब है।

मेरे मित्र और माननीय सांसद श्री राम शंकर कठेरिया जी ने कई बार आगरा में एक बेंच स्थापित किए जाने की मांग की है। हमारे वर्तमान उत्तर प्रदेश के मुख्यमंत्री जब लोक सभा सांसद थे, तब उन्होंने गोरखपुर में न्यायपीठ बनाए जाने की मांग की थी। मैंने स्वयं उत्तर प्रदेश के मेरठ से सांसद होने के नाते वहाँ बेंच स्थापित किए जाने की मांग की थी।

मैं उत्तर प्रदेश की स्थिति के बारे में कहना चाहता हूँ। वहाँ न्याय का मुख्य केंद्र अर्थात् उच्च न्यायालय इलाहाबाद में स्थित है। उसकी एक बेंच लखनऊ में भी है। पश्चिमी उत्तर प्रदेश के जिलों के व्यक्तियों को न्याय पाने के लिए 500 से 800 किलोमीटर चलकर इलाहाबाद जाना पड़ता है। छोटे-छोटे मामले, जैसे खेत के छोटे मुकदमों आदि में लोगों के खेत तथा मकान तक बिक जाते हैं। वे लोग ये मुकदमे लड़ते-लड़ते बर्बाद हो जाते हैं।



अतः मेरा आपके माध्यम से यह निवेदन है कि इन तीनों स्थानों पर हाई कोर्ट की बेंच की स्थापना की जाए, ताकि उत्तर प्रदेश की जनता को समय रहते न्याय मिल सके। मैंने इस दृष्टि से गोरखपुर, मेरठ और आगरा में बेंच बनाकर इन तीनों स्थानों के लोगों को न्याय संबंधी सुविधाएँ प्रदान करने का निवेदन किया है। आज स्थिति यह है कि उत्तर प्रदेश में विभिन्न स्थानों पर हाई कोर्ट की बेंच बनाए जाने के संबंध में आए दिन आंदोलन चलते रहते हैं।

यह मसला वकीलों का बिलकुल नहीं है, यह जनता का मसला है। वकील इसके कारण आंदोलित रहते हैं, इससे समस्याएं रहती हैं। मैं आपके माध्यम से यह आग्रह करना चाहता हूँ कि इस समय जो व्यवस्था है उसके हिसाब से उच्च न्यायालय की खण्डपीठ बनना मुश्किल है। इलाहाबाद उच्च न्यायालय की खण्डपीठ के विस्तार की संस्तुति देने में संकोच के कारणों के विस्तार में मैं नहीं जाना चाहता हूँ। कुछ लोगों का इसमें वेस्टिड इंटरैस्ट हो सकता है। इस समय जो व्यवस्थाएं हैं, उसके अनुसार उत्तर प्रदेश में इस प्रकार की बेंचिज बनना लगभग असम्भव है। इसलिए इस मामले में पार्लियामेंट को हस्तक्षेप करना चाहिए और सभी राज्यों में प्रतिनिधित्व के अनुसार और भी ज्यादा हाई कोर्ट की बेंच बनाने की आवश्यकता है। मेरी आपके माध्यम से सरकार से अनुरोध है कि देश में उच्च न्यायालय की और भी ज्यादा बेंच बनाने की आवश्यकता है। इस मामले में न्याय व्यवस्था को खुद रीविजिट करने की आवश्यकता है। इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ। धन्यवाद।

SHRI ANTO ANTONY (PATHANAMTHITTA): Hon. Deputy Speaker, Sir, thank you very much for allowing me to participate in the discussion on the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2017.

India is the largest democracy in the world and the success of democracy largely depends on the principle of checks and balances. According to this principle, the power of the Government is separated amongst legislature, executive, and judiciary. Hence, judiciary has to play a major role in ensuring good governance in a polity. To this end, the judicial system has to function independently and impartially.

I welcome the Government's move to enhance the salaries of the Judges of High Courts and the Supreme Court. At present our Judges are drawing meagre salaries compared to their South Asian counterparts. At present, our Chief Justice is getting only Rs. 1,00,000 per month as salary. However, the Chief Justice of Pakistan is getting Pakistani Rs. 8,46,549 per month. This amount is equivalent to Indian Rs. 5,17,848. At the same time, the Chief Justice of Sri Lanka earns a monthly salary of Sri Lankan Rs. 1,45,000. The Chief Justice of Bangladesh is drawing a monthly salary of 1,10,000 Taka. A Supreme Court Judge in Pakistan earns Pakistani Rs. 7,99,699 per month and a High Court Judge earns Pakistani Rs. 7,54,432 per month.

However, a Judge of our Supreme Court is drawing only Rs. 90,000, and a Judge of our High Court earns only Rs. 80,000 per month. This is a meagre amount compared to the monthly income of our leading advocates practicing in the Supreme Court and the High Courts. As a result, there is reluctance on the part of eminent advocates to take up the responsibility of a Judge in the country. Inadequate judicial salaries, especially when compared with what lawyers are earning, deter many young lawyers from taking up a seat on the bench when offered. The most productive and highest earning years of a lawyer's life is usually between the ages of 50 and 70. While the burden on a High Court or Supreme Court Judge is just as much as that of a lawyer of the same age, they have to make do with a small fraction of the remuneration. It is perhaps the right time for the Government to take up judicial salaries as a serious issue that affects the quality of the justice delivery mechanism.

It is also imperative to place our Judges beyond any scope of temptation so that they can discharge their duties impartially and without fear or favor. The proposed amendment seeks to enhance the monthly salary of the Chief Justice of India to Rs. 2,80,000, the Judges of the Supreme Court and the High Court Chief Justice to Rs. 2,50,000, and the Judges of High Courts to Rs. 2,25,000.

I hope this amendment will ensure the financial safety of our Judges. Therefore, I support the proposed amendments

**श्री धर्मद्र यादव (बदायूँ)** : उपाध्यक्ष महोदय, आपने मुझे बोलने का समय दिया, इसके लिए मैं आपका आभारी हूँ। उच्च न्यायालय व उच्चतम न्यायालय के जजों के वेतन एवं सेवा संशोधन विधेयक, 2017 जो माननीय विधि मंत्री जी लाए हैं, मैं इस बिल का समर्थन करता हूँ। मैं समझता हूँ कि जैसे-जैसे देश के अंदर महंगाई बढ़ रही है, वैसे-वैसे भते और पेंशन बढ़ाने में सरकार को तत्परता दिखानी चाहिए, क्योंकि जब पेंशन या भते या पे बढ़ती है तो लोगों की वर्किंग एफीशिएंसी भी बढ़ती है। मैं इस बिल का अपनी तरफ से व अपनी पार्टी की तरफ से समर्थन करता हूँ। जहां तक न्यायालय का सवाल है, मैं समझता हूँ देश के अंदर लोकतंत्र को मजबूत करने में जहां हमारी संसद ने मतत्वपूर्ण योगदान दिया है, वहीं देश की न्यायपालिका पर देश के जनमानस को भरोसा है। मैं आपके माध्यम से माननीय मंत्री जी से निवेदन करना चाहूंगा। अभी अग्रवाल साहब ने बहुत सारे डेटा रख दिए हैं, मैं उन्हें दोहराने में समय नहीं लूंगा। देश के अंदर लगभग 13 करोड़ लोग आज भी न्यायपालिकाओं में वाद लम्बित पड़े रहने के कारण परेशान हैं। भारत सरकार, विधि मंत्रालय व न्यायपालिका को इस पर गंभीरता से विचार करने की जरूरत है। सबसे पहले मैं मंत्री जी से निवेदन करूंगा कि 6 उच्चतम न्यायालय के अंदर 6 जजों की नियुक्तियाँ हों, चाहे उच्च न्यायालयों के अंदर जजों की कई सौ नियुक्तियाँ हों और चाहे लोअर न्यायपालिका में जो रिक्तियाँ हैं, सबसे पहले आपको उन रिक्तियों को फुलफिल करना चाहिए।

उसके साथ-साथ न्यायपालिका से भी सरकार को अनुरोध करना चाहिए कि समय से लोगों को न्याय मिल सके। मैं माननीय मंत्री जी से इस मौके पर कहना चाहता हूँ कि जिस तरह से समाज के अंदर, आप स्वयं एक बहुत बड़े वकील हैं, माननीय उच्चतम न्यायालय और उच्च न्यायालय के जो बड़े वकील साहिबान हैं, उनकी फीस अधिक है। मैं समझता हूँ समाज के 80 परसेंट लोग ऐसे हैं, जो उस फीस को वहन नहीं कर सकते हैं। इसलिए मैं भारत सरकार से निवेदन करता हूँ कि कम से कम गरीबी रेखा के नीचे रहने वाले लोग, दलित, शोणित व गरीब लोग जो बड़े वकील की फीस नहीं दे सकते हैं, सरकार द्वारा उन लोगों को व्यवस्था उपलब्ध कराने के लिए मेरा आपसे अनुरोध है। जहां तक सर्वोच्च न्यायालय, उच्च न्यायालय और न्यायपालिका का सवाल है, माननीय मंत्री जी उससे संबंधित बिल लाए थे। उस बिल को माननीय सदन ने रिजेक्ट कर दिया। अभी अग्रवाल साहब कह रहे थे। मैं भी कहता हूँ कि सरकार ने अपनी मजबूत इच्छाशक्ति दिखाकर राष्ट्रीय उच्च न्याय आयोग के गठन की बात की थी। आपको उससे पीछे नहीं हटना चाहिए। सरकार पीछे हटी है, जिससे सरकार और संसद की कमजारी सामने आयी है। मैं इतना कहना चाहता हूँ कि आज बहुत सारे वक्ताओं ने व साथियों ने चर्चा की है। मैं उसको दोहराना चाहता हूँ। देश के अंदर पिछड़े वर्ग की आबादी करीब 54 से 60 फीसदी के आसपास है, दलित भाइयों की आबादी करीब 20 से 25 फीसदी के आसपास है और अल्पसंख्यक की आबादी है। जहां देश की 85 फीसदी आबादी का यह स्तर है, वहां उच्च न्यायालय या उच्चतम न्यायालय के अंदर माननीय न्यायधीशों की संख्या बहुत कम है। यहां बहुत सारे लोगों ने मंथन किया व चर्चा की। इतने बड़े वर्ग, लगभग 85 फीसदी लोगों में यदि योग्य लोग नहीं आ सके तो जिन लोगों ने 70 साल तक राज किया, उनकी भी जिम्मेदारी थी जो आज पिछड़े वर्ग के, दलित वर्ग व अल्पसंख्यक वर्ग के लोग न्यायधीश नहीं बन पा रहे हैं। इन लोगों को न्याय व्यवस्था से दूर रखा जा रहा है। न्याय व्यवस्था से दूर रखने की बात नहीं है तो आज आप इस ओर ध्यान क्यों नहीं दे रहे हैं? मैं माननीय मंत्री जी से कहूंगा कि उच्च न्याय आयोग बनाकर, जिस तरह से सिविल सर्विसेज़ में या पार्लियामेंट जैसी लोकतंत्र संस्था में रिजर्वेशन की व्यवस्था है, उसी तरह का रिजर्वेशन देश के पिछड़े वर्ग, दलितों और अल्पसंख्यकों को देने की जिम्मेदारी हमारी इस सरकार में बैठे लोगों की है... (व्यवधान) मैं उम्मीद करता हूँ और मुझे कहने में अफसोस हो रहा है कि जब ट्रिपल तलाक पर बिल पास हो रहा था तो इसी सदन के अंदर एक घण्टी में कोरम पूरा हो गया।

पिछड़ा वर्ग आयोग बनाने का जो लिस्टेड बिल था, वह आज कोरम के अभाव में पेश नहीं किया गया। देश के प्रधान मंत्री पिछड़े जरूर हैं, लेकिन प्रधान मंत्री जी के आसपास रहने वाले लोग कहीं न कहीं पिछड़े वर्ग के विरोधी हैं। इसीलिए आज पिछड़ा वर्ग का बिल जो सदन में लिस्टेड था, वह पेश नहीं हो पाया, उसमें कहीं न कहीं कोरम का अभाव दिखाया गया। इसलिए मैं इस मौके पर प्रधान मंत्री जी से कहना चाहता हूँ कि देश का पिछड़ा वर्ग, देश का दलित, देश का अल्पसंख्यक इस बात का इंतजार कर रहा है कि देश की व्यवस्था का जो महत्वपूर्ण स्तंभ न्यायपालिका है, उस न्यायपालिका को आबादी के अनुसार, उसका त्याग और राष्ट्रीय निर्माण में जो योगदान है, उस योगदान के अनुपात में उसको कब भागीदारी मिलेगी, इस बात का इंतजार देश का पिछड़ा वर्ग और दलित वर्ग कर रहा है। मुझे उम्मीद है कि माननीय मंत्री जी आप इस पर गंभीरता से विचार करेंगे। इसी उम्मीद के साथ जो संशोधन अधिनियम आप लाये हैं, उसका मैं अपनी पार्टी की ओर से, नेता जी की ओर से पुरजोर समर्थन करता हूँ। धन्यवाद।

**श्री जय प्रकाश नारायण यादव (बाँका) :** उपाध्यक्ष महोदय, उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2017 पर बोलने के लिए मैं खड़ा हुआ हूँ। माननीय रविशंकर प्रसाद जी इस बिल को सदन में लाये हैं। सबसे पहले मैं यही मानता हूँ कि यदि डा.भीमराव अम्बेडकर न होते तो हमें यहां बोलने की आजादी नहीं मिलती। हमारा यह कहना है कि संविधान ही हमारा संबल है। यह संविधान हमारे हक, अधिकार दिलाने वाला है, यही हमारी पूंजी है और उसके कानून के रास्ते से हम अपने हकों के लिए आगे बढ़ते हैं।

मैं बहुत पाइंटेड बात रखना चाहता हूँ। देश में जो पे कमीशन बना है, यदि उसी में एम.एल.ए., एम.पी.ज. तथा जो अन्य जनप्रतिनिधि हैं, उनके सारे वेतन भत्तों को बढ़ाने का मामला भी शामिल कर लिया जाए तो रोज-रोज ये बातें सामने नहीं आयेंगी और मीडिया को कुछ बोलने का मौका भी नहीं मिलेगा। जो पे कमीशन बना है, उसी में इन्हें भी शामिल कर लिया जाए तो बार-बार वेतन बढ़ने की चर्चा नहीं होगी। देश में महंगाई बढ़ती है, लेकिन एम.एल.ए. और एम.पी.ज. के वेतन वहीं के वहीं स्थिर हो जाते हैं। इसलिए इस चीज का ख्याल करके सबके लिए एक कमीशन बनाया जाए। जब आदरणीय प्रणव मुखर्जी वित्त मंत्री थे तो आदरणीय लालू जी अन्य सभी लोगों को साथ लेकर उनके पास गए थे। उन्होंने कहा कि आप एक्स-एम.पी.ज. को देख लीजिए और जो वर्तमान में एम.पी.ज. हैं, उन्हें देख लीजिए। इनमें से बहुत से लोगों को अपने स्वास्थ्य को ठीक रखने के लिए दवाइयों की बहुत परेशानी होती है। सभी लोगों ने आदरणीय लालू जी की बात का समर्थन किया था और उधर के लोगों ने भी समर्थन किया था। हमारी मांग है कि जो एम.पी. है या अन्य जनप्रतिनिधि हैं, उनका वेतन कैबिनेट सैक्रेटरी से एक रूपया अधिक बढ़ा दिया जाए।

इसके बाद लोक सभा और सुप्रीम कोर्ट का कानून आता है। नौकरशाही का ग्रेड भी हमारे से ऊपर होता है। इसके बाद मैं कहना चाहता हूँ कि कड़िया मुंडा कमेटी की एक रिपोर्ट आई है, वह सामने आनी चाहिए। उस रिपोर्ट में यह सब दिया हुआ है कि देश में कितने ओबीसी हैं, कितने एस.सी. हैं, कितने एस.टी. हैं। वह कितने एम.पी.ज. की मानसिकता का द्योतक है। ओबीसी का बिल सदन में पास क्यों नहीं हो रहा है, इस पर भी ध्यान देने की जरूरत है।

इन्हीं शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

**श्री रत्न लाल कटारिया (अम्बाला) :** महोदय, आदरणीय रवि शंकर प्रसाद जी ने जो प्रस्ताव हमारे सामने रखा है, मैं इसका समर्थन करने के लिए खड़ा हुआ हूँ। इसके पहले भी आदरणीय मंत्री जी ने जूडिशियल रिफॉर्म के माध्यम से बहुत ही क्रान्तिकारी बिल इस महान सदन से पास कराया है। अभी दो दिन पहले ही तीन तलाक जैसा महत्वपूर्ण एवं ऐतिहासिक बिल इस महान सदन ने पास किया। आज सुप्रीम कोर्ट और हाई कोर्ट के जजों की सैलरी को लेकर जो बिल आया है, मैं उसका समर्थन करने के लिए खड़ा हुआ हूँ। भारत के संविधान निर्माता, ड्राफ्टिंग कमेटी के चेयरमैन बाबा साहब भीमराव अम्बेडकर ने भारत को इस प्रकार का बेहतरीन संविधान दिया और उस संविधान में लेजिस्लेचर, जूडिशिएरी और एग्जिक्यूटिव को भारत की एकता एवं अखण्डता की माला में इस प्रकार के मोती के रूप में पिरोया कि आज हमारा संविधान बहुत बेहतरीन ढंग से काम कर रहा है। आज इस

महान सदन में महान सदस्यों ने जो बातें जूडिशिएरी और लेजिस्लेचर के टकराव के बारे में उठाई हैं, इसके बारे में सभी सदस्यों ने अपनी कंसर्न आज इस महान सदन में रखी है।

महोदय, मैं कहना चाहता हूँ कि लेजिस्लेचर, एग्जिक्यूटिव और जूडिशिएरी के बीच एक छोटी सी झिल्ली है। हम इसे इस प्रकार देखते हैं कि जैसे प्याज होती है, प्याज का छिलका उतारते हैं तो उसमें एक छोटी सी झिल्ली बीच में बनी होती है। ऐसी ही झिल्ली संविधान के इन तीनों अंगों के बीच होती है और अगर इसमें कहीं भी संतुलन बिगड़ता है तो इसका नुकसान न केवल उस संस्था को होता है, बल्कि यह नुकसान भारत का नुकसान है और भारत के लोगों का नुकसान है। मैं यह कहना चाहूँगा कि जब वकील प्रैक्टिस करता है तो 30 से 45 साल की उम्र के बीच वह अपने कैरियर के पीक पर पहुँचता है। उस समय उसकी अर्निंग बहुत अच्छे ढंग की हो जाती है। उस समय जब उसके सामने जज बनने का प्रस्ताव आता है, तो वह जज बनने से हिचकता है। वह जो वकील के रूप में कमा रहा होता है, वह उस वेतन को इससे कई गुना कम करके आंकता है और इसलिए वह जूडिशिएरी की तरफ आकर्षित नहीं होता है। इस बिल के पास होने से और एक सम्मानजनक वेतन मिलने से जो अन्य वकील हैं, वे भी जज बनने की ओर अग्रसर होंगे। यह करोड़ों केसेज का जो बैकलॉग पड़ा है, वह बैकलॉग ठीक होगा।

अन्त में मैं भी अपनी आवाज सदन के सभी माननीय सदस्यों के साथ मिलाना चाहूँगा। माननीय मंत्री जी ने भी आश्वासन दिलाया है कि जो इस महान सदन के माननीय सदस्य हैं, उनके वेतन की सिफारिशें भी वरेण 2006 से अटकी पड़ी हैं, जब से ये सिफारिशें अटकी पड़ी थीं। माननीय मंत्री जी आप कृपया उनका भी संज्ञान लें। धन्यवाद।

**श्री दुरेयंत चौटाला (हिसार) :** महोदय, आपने मुझे उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2017 पर बोलने का मौका दिया, इसके लिए आपका धन्यवाद।

मंत्री जी ने जिस तरीके से इंटरडिक्शन की और बताया कि संविधान के अंदर उस समय यह चीज लिखी गई थी कि पे कमीशन जिस तरीके से सैलरी बढ़ायेगा, पार्लियामेंट का आधार होगा कि उन्हीं शर्तों पर सैलरी को बढ़ाने का काम किया जाएगा। दोनों माननीय मंत्री जी यहाँ बैठे हैं, मैं पूछना चाहूँगा कि आज सुप्रीम कोर्ट और हाई कोर्ट के जजेज की हम बात कर रहे हैं, लेकिन आज सबसे ज्यादा काम जो जजेज करते हैं, वे लोअर जूडिशिएरी के हैं, ग्राम न्यायालय के हैं। क्या आपकी सरकार उनकी तनख्वाह बढ़ाने का भी कोई विचार-विमर्श कर रही है? आज जरूरी है कि लोअर जूडिशिएरी को भी हम स्ट्रॉंग करें और उससे आने वाले केसेज की सैटेलमेंट को आगे कोर्ट तक लेकर आएं।

महोदय, एक एवरेज डिस्पोजल जो सुप्रीम कोर्ट में सिविल पिटिशन का है, एसएससी का जो आपका जर्नल है, वह बताता है कि वह बारह से पंद्रह साल का है। एक एवरेज क्रिमिनल सूट पांच से सात सालों का है।

महोदय, मैं मंत्री जी से पूछना चाहूँगा कि अभी एक केस आपकी सरकार के सामने खत्म हुआ, जिसमें डी.टी.सी. के एक कंडक्टर ने पांच रुपये की चोरी की थी। उस केस को वरेण 1970 के दशक

से वएन 2017 तक हमें देखना पड़ा और उसमें क्लेम केवल पांच रुपये का था। आपकी सरकार सुप्रीम कोर्ट में रिव्यू पिटीशन भी लेकर गई, जो पंद्रह सालों तक चला। ऐसी पेन्डेंसी के लिए हम ज्युडिशियरी की तनखाह बढ़ाने का काम कर रहे हैं। मगर, आज जब इस पर चर्चा हो रही है तो मैं आग्रह करूंगा कि उनकी जो लाइब्लिटीज हैं, उसे भी हमें बढ़ाना चाहिए। अगर आपको उनकी तनखाह बढ़ाने के साथ कोई कदम उठाना है तो हाई कोर्ट्स और सुप्रीम कोर्ट की जितनी भी प्रोसीडिंग्स हैं, जैसे आज हम राज्य सभा और लोक सभा की प्रोसीडिंग्स को लाइव करते हैं, इसी तरीके से लॉ मिनिस्ट्री के पोर्टल पर उसे ऑनलाइन करिए।

इस देश में लोग कहते हैं कि ज्युडिशियरी में करप्शन है। मैं यह आरोप नहीं लगाता हूं, बल्कि लोग इसकी चर्चा करते हैं। जब एन.जे.ए.सी. का मामला एक कंस्टीट्यूशनल बेंच के सामने था, तो एक सीनियर वकील ने आकर कहा था कि जज महोदय, अगर आप सच्चाई सुनना चाहते हैं तो बुर्का पहन कर सुप्रीम कोर्ट के गलियारों में घूमिए तो पता चलेगा।

उपाध्यक्ष महोदय, मैं समाप्त कर रहा हूं। मैं आपके माध्यम से यही आग्रह करूंगा कि जो पेन्डेंसी है, उसके साथ-साथ जो वैकेन्सी है, उसको भी आप पूरा करने का काम करें।

अन्त में, मैं एक आग्रह करूंगा। आज सुप्रीम कोर्ट के एक पियन की तनखाह 35,000 रुपये से 50,000 रुपये है, सुप्रीम कोर्ट के स्टैनोग्राफर की तनखाह आज 50,000 रुपये से लेकर 85,000 रुपये के बीच में है। इसलिए यह आग्रह है कि अगर आप पैरिटी लाना चाहते हैं तो संविधान के तीन स्तम्भ हैं, आप तीनों स्तम्भों को बराबर करने का काम कीजिए।...(व्यवधान)

**श्री कौशलेद्र कुमार (नालंदा) :** उपाध्यक्ष महोदय, आपने मुझे 'उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2017' पर हो रही चर्चा में भाग लेने का मौका दिया, इसके लिए आपको बहुत-बहुत धन्यवाद।

सरकार ने मूल अधिनियम, 1954 और 1958 में संशोधन करने का प्रस्ताव किया है, जिससे भारत के मुख्य न्यायाधीश, उच्चतम न्यायालय के न्यायाधीशों, उच्च न्यायालय के मुख्य न्यायाधीश और उच्च न्यायालय के न्यायाधीशों के वेतन एवं पेंशन का पुनर्निर्धारण कर उसमें बढ़ोतरी की जा सकती। सातवें वेतन आयोग की सिफारिशों को लागू करने के बाद यह आवश्यक हो गया था। इस तरह, हमारे माननीय न्यायाधीशों के वेतन एवं पेंशन में बढ़ोतरी का रास्ता साफ हो जाएगा। लेकिन, मैं आपके माध्यम से माननीय मंत्री जी का ध्यान इस ओर आकृष्ट कराना चाहूंगा कि न्यायालयों में जो केसेज पेन्डिंग हैं, उनका कैसे निपेदादन किया जाए? जो गरीब लोग होते हैं, न्यायालयों में आते-जाते उनकी परेशानी देखी जा सकती है। वे केस नहीं लड़ पाते हैं और उसे छोड़ देते हैं। उन्हें न्याय नहीं मिल पाता है। उसी तरीके से, आज न्यायालयों में जहां जजों की कमी है, उसकी कैसे भरपाई की जाए, इसकी भी व्यवस्था की जाए। न्यायालय को सुसज्जित करने की भी व्यवस्था की जाए। जो मुवक्किल वहां जाते हैं, उनके बैठने की भी व्यवस्था हाई कोर्ट और सुप्रीम कोर्ट में नहीं है। उसकी भी व्यवस्था होनी चाहिए। उनके लिए वहां शौचालयों की भी उचित व्यवस्था नहीं है।

बहुत-बहुत धन्यवाद।

**श्री राजेश रंजन (मधेपुरा) :** उपाध्यक्ष महोदय, मैं मंत्री महोदय से बड़ी विनम्रता के साथ कहना चाहूंगा कि देश की आजादी के 70 सालों के बाद भी अनुसूचित जाति के सिर्फ दो, अनुसूचित जनजाति के एक और मुस्लिम समुदाय के सिर्फ चार लोग आज तक चीफ जस्टिस बने हैं।

पूरे देश में 154 जस्टिस हुए हैं, जिसमें 6.5 प्रतिशत ही मुसलमान हैं। उसमें महिलाओं की हिस्सेदारी मात्र 10.4 प्रतिशत है। कुल लगभग 17,000 जजों में से करीब 4,700 ही महिला जज हैं। इसका मतलब करीब 25 प्रतिशत जज महिलाएं हैं। 15 प्रतिशत मुस्लिम आबादी में 24 उच्च न्यायालयों के कुल 600 सिटिंग जजों में सिर्फ 26 मुस्लिम जज हैं। यहां 300 जातियां और 25,000 उप जातियां हैं। मगर, यह कहा जाता है कि उच्च न्यायालयों में सिर्फ 132 परिवारों का जजों के पद का कब्जा है। आप लोग कहते हैं कि देश में पहली बार ऐसे प्रधान मंत्री बने हैं, जो पिछड़ों के हैं। मेरा आपसे विनम्र आग्रह इस बात के लिए है कि आप इसे जनसंख्या के आधार पर करिए।

सर, मेरा पॉइंट है कि यू.पी.एस.सी. और बी.पी.एस.सी. की तर्ज पर आप जज सर्विसेज को क्यों नहीं करते हैं?

यह सबसे महत्वपूर्ण है। आप इन चीजों को ला रहे थे, लेकिन आप इससे पीछे क्यों हट गए? जब आप इस बात को कहते हैं कि सभी के लिए समान अधिकार की बात होगी, तो हिन्दुस्तान के समाज में जो अंतिम पायदान पर व्यक्ति है, चाहे वह एससी, एसटी तथा समाज का कमजोर व वंचित वर्ग है, मैं यह जानना चाहता हूँ कि एससी, एसटी, दलित, बैकवर्ड तथा अल्पसंख्यक वर्ग के कितने लोग सुप्रीम कोर्ट, हाई कोर्ट, जिला कोर्ट व लोअर कोर्ट में जस्टिस बनते हैं? आज इसको भी देखने की जरूरत है। लॉयर के माध्यम से जो जज बनते हैं, तो उसमें एससी, एसटी, दलित, बैकवर्ड तथा अल्पसंख्यक वर्ग के कितने लोग होते हैं? यह विषय भी महत्वपूर्ण है।

महोदय, अब मैं अंतिम बात ही कह रहा हूँ। मेरा आपसे आग्रह है कि आज मीडिया ट्रायल पर भी ध्यान दिया जाए। मीडिया ट्रायल के संबंध में जो सबसे बड़ी बात है कि जो मीडिया ट्रायल होता है, वह बहुत ही गलत है। जजों के लिए जो कॉलेजियम सिस्टम है, उसमें दलित, बैकवर्ड तथा अल्पसंख्यक वर्ग के कितने लोग हैं? यह प्वाइंट भी महत्वपूर्ण है। आज वकीलों के बारे में भी बार-बार बात आती है। सीसीटीवी कैमरे के बारे में भी कई माननीय सदस्यों ने कहा है। मैं चाहता हूँ कि जिस तरीके से लोकतंत्र के चार स्तंभ हैं, उनके डंके की चोट पर दुनिया को बताना चाहिए कि यह फेयर न्याय है और मैं फेयर न्याय करने जा रहा हूँ।

महोदय, जब सभी जगहों पर आरक्षण लागू है और आप हर चीजों में आरक्षण की बात करते हैं, तो क्यों नहीं आप सर्वोच्च न्यायालय में आरक्षण की वकालत करते हैं? क्या कारण है कि आप वहाँ आरक्षण की व्यवस्था नहीं करते हैं? आज बगैर आरक्षण का कोई जस्टिस नहीं हो सकता है? न्याय कानून के तहत काम करता है। बाबा साहब अम्बेडकर ने एक बहुत बड़ा ग्रंथ दिया है। इन्वेस्टिगेशन ऑफिसर डी.एम., सी.एम. एवं पी.एम. से प्रभावित होता है। इन्वेस्टिगेशन ऑफिसर के तर्क पर कानून तय होता है। मेरा सिर्फ इतना ही कहना है कि जब इन्वेस्टिगेशन ऑफिसर फेयर ही नहीं होगा, तो गरीब आदमी को न्याय कैसे मिलेगा? इन्वेस्टिगेशन ऑफिसर ... \* से चलता है, चाहे वह सीबीआई हो

या कोई अन्य इन्वेस्टिगेशन एजेंसी हो। मेरा आपसे आग्रह है कि आज गरीब आदमी को न्याय कैसे मिलेगा? बहुत-बहुत धन्यवाद।

SHRI N.K. PREMACHANDRAN (KOLLAM): Thank you, Deputy-Speaker, Sir. I fully support this Bill enhancing the salaries and allowances of High Court and Supreme Court Judges.

The Indian judicial system has played a very important historic role in strengthening the Indian democratic system. Even in the days of Emergency, we are well aware that the landmark judgements of the Supreme Court and the Indian judicial system has played a historic role in maintaining and protecting the fundamental rights of the citizens of the country.

In that way, the custodian and guardian of the Constitution of India is the court or the judicial system in the country and it is only because of separation of powers, which is enunciated in the Constitution. It is one of the basic features of the Constitution, that is, separation of powers. But, nowadays, it is quite unfortunate to say that the credibility of the Indian judicial system is under big threat. It is being questioned, and the credibility of the Indian judicial system is going down day-by-day.

I would like to cite two examples. The first example is regarding the imprisonment of Justice Karnan. I am not supporting the cause of Justice Karnan, but he has made a complaint before the Prime Minister and the President of India regarding corruption allegations against the Supreme Court Judges. What has the Supreme Court done in it? The Supreme Court without observing the principles of natural justice has *suo motu* issued warrant against Justice Karnan and imprisoned him. I am not supporting the cause of Justice Karnan because he has also issued warrants against the Supreme Court Judges.

I am not supporting it, but what is the course of action when a High Court Judge is acting against the Constitution? The only provision in the Constitution is to impeach the Judge. Instead of making an impeachment provision or instead of making legal provisions against the concerned Judge, the Supreme Court has imprisoned him without observing the principles of natural justice. It means that there is no proper independent mechanism to enquire into the allegations of corruption against the Judges.

Another example I would like to cite here. There was an allegation against the Supreme Court judge regarding the issuance of LoP to the medical colleges. It is very interesting to see that a larger Bench was constituted to hear the case. The Judge against whom the corruption allegation was made, the same Judge was made a Member of the Bench. He has heard the



case and disposed off the case. It is a constitutional principle that no person shall be a Judge of his own case.

Coming to the NJAC Bill, I would like to pose a specific question to the hon. Law Minister. What happened to the NJAC Bill? Still I remember the speech of Shri Ravi Shankar Prasad, hon. Law Minister. He made an exemplary speech while introducing that Bill. It was one of the best speeches in the 16<sup>th</sup> Lok Sabha. But unfortunately what has happened to NJAC Bill? Nothing has happened. ... (*Interruptions*) Anything which is concerned and against the Supreme Court Judges, it will be struck down. ... (*Interruptions*)

Lastly, Shri Kalyan Banerjee has made a very stringent observation. ... (*Interruptions*)

HON. DEPUTY SPEAKER: The Minister has to go to the other House.

... (*Interruptions*)

SHRI N.K. PREMACHANDRAN: I will conclude with this point. ... (*Interruptions*) I have a different opinion. ... (*Interruptions*) The question is about encroachment of Legislature by the Judiciary. Is it not the weakness and inefficiency of the Legislature and the Executive that the Judiciary is encroaching into the domains of Legislature and Executive? We have to have self-introspection. Political system in the country should be honoured. ... (*Interruptions*) Legislature should have the political will. .... ... (*Interruptions*)

**विधि और न्याय मंत्री तथा इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्री (श्री रवि शंकर प्रसाद):** माननीय उपाध्यक्ष जी, मुझे इस बात की बहुत खुशी है कि जजेज के वेतन पर रिवीजन को लेकर लगभग 18 माननीय सदस्यों ने अपने विचार रखे हैं और बीच-बीच में आपके व्यापक अनुभव के कारण, आप देश के पूर्व कानून मंत्री रहे हैं, your intervention was very, I would say, enlightening; Prof. K.V. Thomas in his own sober, somber, low-key and yet eloquent style really set the tone for this debate. Shri Gopal Shetty *ji* also spoke brilliantly; and Kalyan Babu, my good friend, took it to great heights.

मैं हमेशा कहता हूँ कि अगर सदन बहस करने के मूड में आता है तो सदन कोई भी विषय बहुत ऊँचाई पर ले जाता है। मैं आज सभी का नाम नहीं ले रहा हूँ, लेकिन सभी सम्माननीय सदस्यों ने जो अपनी चिंता जाहिर की है, मैं उनका संक्षेप में उत्तर दूंगा। मैं सदन के सभी सदस्यों का अभिनन्दन करना चाहूंगा कि उन्होंने जुडीशियरी के इस पूरे रिवीजन के विषय का एकमत से समर्थन किया है। यह एक बहुत बड़ा संदेश गया है कि उनकी भले कुछ चिंता भी है, आलोचना भी है, पीड़ा भी है, वेदना भी है, लेकिन माननीय जजेज की सैलरी बढ़नी चाहिए, इसलिए पूरे सदन ने एक स्वर में समर्थन किया है, यह एक बहुत बड़ी बात है, जिसका मैं अभिनन्दन करना चाहता हूँ।

हमें अपनी न्यायपालिका का सम्मान करना चाहिए। धर्मेन्द्र जी पता नहीं सदन में उपस्थित हैं या नहीं। ... (व्यवधान) धर्मेन्द्र जी, मैं आपका नाम ले रहा हूँ, बैठिए। हमारे बहुत अच्छे दोस्त कल्याण बाबू ने क्या कहा, लोकतंत्र को मजबूत करने में न्यायपालिका की बहुत बड़ी भूमिका है। We are very proud of our Judiciary, the way they have upheld the human rights of the poor, of the underprivileged, the way they expanded access to justice. It is a matter of great assurance. It is very important for me to convey that the judgements of the hon. courts, namely the Supreme Court and the High Court are cited with great respect world over. Therefore, the great courage of Indian Judiciary, we all need to respect. I would say, Judiciary by and large is honest and integrity; we should be proud of their integrity. Prof. Thomas talked about middlemen, and the same was the concern expressed by other Members. Here, I have to make a comment. What is the real strength of the Judiciary? A simple Additional District Judge has got the power to give capital punishment to a big mafioso who is killing people with impunity. Shri Kalyan Babu, an eminent lawyer - would bear me out - those are mafias who attack even the police at the slightest provocation.

But, why is it and how is it that the same Additional District Judge who has given the capital punishment to the mafia, after retirement is purchasing vegetable with his wife and there is no attack on them? Is it because of the power of the Judge? There is power. There is power of contempt also. But the real authority of a Judge of India is the moral authority. We all need to remember that. This moral authority should not be compromised. We need to understand this. I am not making a political comment. But, it is a matter of strength of India's judiciary that a little known Judge Jagmohan Lal Sinha of Allahabad High Court showed the courage to set aside the election of a sitting Prime Minister of India, a powerful Prime Minister of India. Therefore, when we were fighting against Emergency in the JP Movement -- distinguished Ananthkumarji is here, Shri Santosh Kumar Gangwarji is here -- I was arrested under MISA and the same High Court gave me relief. When we were fighting during Emergency, the same High Court gave us relief. Therefore, it is very important to salute the courage, the tradition and the heritage of the Judiciary. We all need to understand that.

I think, a very powerful message has gone today. It was started by hon. Prof. Thomas whom I respect a lot, an MP of very wide experience, by saying that this House is concerned about middlemen; this House is concerned about occasional instances of lack of probity; that this House is concerned of a greater need of more rigorous and standards of transparency. I only hope and wish that the might of the hon. Judiciary is listening to the concerns of this House.

मैं एक बात आपको साफ-साफ कहना चाहता हूँ, न्यायपालिका को नियंत्रित करने के लिए सरकार का हस्तक्षेप नहीं होना चाहिए। न्यायपालिका की स्वायत्तता पर हमें विश्वास करना चाहिए। मैं एक बात बहुत ही विनम्रता से अवश्य कहना चाहूंगा, इम्पीचमेंट सभी मर्ज का इलाज नहीं है, Impeachment is not the remedy for all the diseases. हम चाहेंगे कि ज्युडिशियरी अपने इनर मैक्निज्म को मजबूत करे। आज मैं बहुत ही पीड़ा से कहना चाहता हूँ कि मेरे पास मीडिया के लोग आए और कहा कि एक रिटायर्ड एक्टिंग चीफ जस्टिस मेडिकल कॉलेज में घूस देने के ऐडयंत्र में गिरफ्तार किया गया है। लोगों ने पूछा कि कानून मंत्री आपका क्या कहना है? मैंने कहा कि मैं कुछ भी नहीं बोल पाऊंगा। मैं आज जो कुछ बना हूँ, उसमें न्यायपालिका का बहुत बड़ा हाथ है, पटना हाई कोर्ट का हाथ है, सुप्रीम कोर्ट का हाथ है क्योंकि देश के सारे हाई कोर्ट में मुझे अपीयर होने का मौका मिला है। मैं अपने इंस्टीट्यूशन पर बहुत गर्व करता हूँ। अगर वहां से यह खबर आती है तो कभी-कभी सिर शर्म से झुक जाता है। क्या ऐसी स्थिति आ गई? मैं यह बात देश के कानून मंत्री के रूप में नहीं बोल रहा हूँ, यह बात भारत के नागरिक के रूप में कह रहा हूँ। यहां की पीड़ा है, इसे समझने की जरूरत है। ज्युडिशियरी की इज्जत को बचाने की जरूरत है, हम भी अपना काम करेंगे और न्यायपालिका भी अपना काम करेगी मैं यह बात अवश्य कहना चाहता हूँ। अप्वाइंटमेंट के बारे में बहुत सी बातें कही गई हैं, धमेद्र जी ने अपनी पीड़ा जताई, Prof. K.V. Thomas spoke about the National Judicial Commission. Shri Kalyan Babu spoke eloquently about the Judicial Commission. ... (Interruptions) Why should I speak in Hindi or English? I am going both ways. Please take it cool. ... (Interruptions) खासकर धमेद्र बाबू आपको एक बात बोलना चाहूंगा, 26 मई, 2014 को माननीय प्रधान मंत्री ने मुझे मंत्री बनाया था और उस समय उन्होंने कानून मंत्री का दायित्व दिया था। मैंने भारत के सारे हाई कोर्ट के चीफ जस्टिस को पत्र लिखा था उसमें पहला पत्र जुलाई, 2014 में लिखा था। उस में मैंने क्या लिखा था The need for giving representation to Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities and women may also be kept in view while making recommendations for fresh appointment to the High Court.

Shri Premachandra ji, thank you for remembering my speech.

पूरे सदन में एक-एक एमपी ने इसे सपोर्ट किया था। राज्य सभा में सिर्फ माननीय जेठमलानी जी ने वॉक आउट किया था, बाकी सबने सपोर्ट किया था। देश की 50 परसेंट विधान सभाओं ने 100 परसेंट सपोर्ट किया था। पूरा देश एक स्वर में बोला था, लेकिन सुप्रीम कोर्ट ने सैट एसाइड कर दिया। आपने सही कहा, हमने निर्णय माना है। उसमें बाकी बातें तो मैं नहीं कहूंगा, but it is very important to remember and I want this House to remember that the Law Minister was just one member of the Commission. It was headed by the Chief Justice of India, no. 2 Judge and no. 3 Judge, and the Law Minister was the one member. The members were eminent people, let us keep it separately but the Law Minister, Mr. Moily has been the Law Minister of India and he knows it too well, was just one member. What does the judgment say? I am saying with some degree of pain today. The judgment said, "Because the Law Minister is a member, if a judge is appointed from that process, he may not act impartially in a case against the Government".

Now, Sir, I want to elaborate this point because I would like to share it here. All the political class present here have been part of the Government. Shri Mulayam Singh ji is a very eminent leader; he has been part of the Government. The Left has been supporting and others have been supporting. What kind of government have we decided? It is a Parliamentary form of Government. The Prime Minister is elected who is accountable to this House. The Prime Minister is assisted by his Ministers; in Finance, by the Finance Minister; in Defence, by the Defence Minister, Shri Mulayam Singh ji has been the Defence Minister; in Law, by the Law Minister but, ultimately, it is the Prime Minister. Sir, what I had said outside, I would like to repeat it, you have been a Law Minister himself, the Prime Minister is the principal player in the appointment of the President of India, the Vice President of India, the Speaker of the Lok Sabha, the Deputy Speaker of the Lok Sabha, the three Army Chiefs, the C&AG, the CVC and the Chief Election Commissioner, and the Prime Minister is entrusted by the people of India to defend the unity and integrity of India. The Prime Minister does all these works along with his Ministers. The constitutional polity entrusts the Prime Minister for so many works but a Prime Minister cannot be entrusted to appoint a fair judge to the Law Minister, that is a very loaded question and at some time, this House will have to debate that. I am saying this with a great degree of pain. I am not saying this as a Law Minister. I am saying this as a student of law and as a student of law and Constitution, I have got the right to give my view about the judgment.

Sir, the second thing which I have to say, which Mr. Thomas briefly adverted to being an experienced Parliamentarian, the Constitution came into force on 26<sup>th</sup> January, 1950, the Collegium System came in 1993. For forty-three years, the Law Minister was an integral part of the selection process. Many a time, the Chief Ministers were there. I have seen the record. Mr. Govind Ballabh Pant was an active participant as a Home Minister. Sir, some of the finest judges were appointed when the Law Minister was a part of the process. Who are they? Justice M. Patanjali Sastri, Justice H. J. Kania, Justice P. B. Gajendragadkar, Justice Mohammad Hidayatullah, Justice V. R. Krishna Iyer, Justice P. N. Bhagwati, the name was mentioned, Justice J. S. Verma, Justice M. N. Venkatachaliah, some of the outstanding judges of India, I only gave some examples, were appointed when the Law Minister was the party. Even that small judge of Allahabad High Court who had the courage to unseat the election of a Prime Minister was also appointed by the Collegium when the Law Minister was a party. Yes, I understand, during emergency, in the case of one Law Minister, there can be a difference but for forty-three years, the finest judges of India were appointed when the Law Minister was a party. Sir, is it not the time today to reflect about the Collegium System? Let

me share my views. We heard of a case of a sitting High Court Judge having sent to conviction for six months for contempt. I do not want to take his name.

SHRI KALYAN BANERJEE (SREERAMPUR): And correctly so.

SHRI RAVI SHANKAR PRASAD: When I examined the files of that Judge, Kalyan Babu, I saw that the collegium said he is well versed in all the branches of law. Obviously, he did not know the contempt law! ... (*Interruptions*) Let us not argue.

The other spectacle was, recently a retired Supreme Court Judge was summoned for contempt by the Supreme Court and made to apologise before the Supreme Court. Again a collegium appointee. Therefore, this full argument that only because the Law Minister is involved, certainly not good judge will be appointed is not a fair conclusion. Now what is to be done? धर्मद्र बाबू, आपने भी कहा कि आप पीछे हट गये। Mr. Thomas said the same. Kalyan Babu also said that. I will leave it to the House. ... (*Interruptions*) We are on a serious issue. If the polity of this country decides one day that we need to speak in one voice again, we will find a way out. I am standing with you.

SHRI N.K. PREMACHANDRAN: We endorse you. ... (*Interruptions*)

SHRI BHARTRUHARI MAHTAB (CUTTACK): The initiative has to come from the Government. The House cannot initiate this. ... (*Interruptions*)

SEVERAL HON. MEMBERS: Audio is not working. ... (*Interruptions*)

**कई माननीय सदस्य :** सर, माइक काम नहीं कर रहा। ...(*व्यवधान*) आप माइक ठीक करवाइए। ... (*व्यवधान*)

SHRI RAVI SHANKAR PRASAD: I am getting a sense of this House, I can see that. And I am also seeing that while this polity is very much divided, on this whole issue there is one voice.

HON. DEPUTY SPEAKER: Yes.

SEVERAL HON. MEMBERS: Yes.

**श्री रवि शंकर प्रसाद :** मुझे इस बात की बहुत खुशी है कि राजनीतिक मुद्दों पर इस सदन में विरोध होता है, लेकिन इस बड़े विषय पर सदन का स्वर एक है। यह बहुत मजबूती की बात है और यह विषय कहीं बाहर भी जाकर सुना जायेगा, ऐसा हमारा पूरा विश्वास है।

उपाध्यक्ष महोदय, मैं विषेयवार कुछ बातों को रखना चाहूंगा। अब कहा गया कि कानून कौन बनायेगा? यह बहुत सही कहा गया। मैं एक बात बड़ी विनम्रता से कहना चाहता हूँ, लेकिन बहुत प्रभावी रूप से कहना चाहता हूँ कि भारत के संविधान निर्माताओं ने साफ-साफ कहा था कि कानून वही बनाये, जिसे जनता कानून बनाने के लिए चुनती है और जो इस सदन के प्रति उत्तरदायी होता है। शासन वही चलाये, जिसे जनता शासन के लिए चुनती है और जो इस सदन के प्रति उत्तरदायी होता है। सर, ऐसा क्यों है?

Governance and accountability go together. You cannot say I will govern but not be accountable. When we say accountability, the Government is accountable to this House, the Committees of this House, and through the House to the people of India.

सर, मुझे एक बात और कहनी है। आज कुछ बोलने की इच्छा कर रही है कि बार-बार देश के पोलिटिकल लीडर्स पर व्यंग्य किया जाता है। मुझे लगता है कि आज जब आजादी के 70 साल हो गये हैं, तो देश के पोलिटिकल प्रौसैस को ट्रस्ट करने की जरूरत है। भारत के संविधान निर्माताओं ने, अम्बेडकर जी की चर्चा हुई, भारत के साधारण व्यक्ति में ट्रस्ट किया था कि उसके हाथ में वोट का अधिकार होगा और वह देश ठीक चलायेगा। आज 70 साल बाद हिन्दुस्तान का आम आदमी जानता है कि वह अपने वोट की ताकत से किसी को हटा सकता है और किसी को ला सकता है। Yes, I am very proud of this.

Every MP sitting in this House or a political activist is accountable to the people of India. They can defeat him, they can reelect him. He is accountable to the Parliamentary Committees, to the Privilege Committee. He is accountable to the media. He is accountable to the C&AG, to the CVC. And if he does not perform, the people will defeat him. There are so many layers of accountability. Let governance be left to those who are elected to govern by the people.

HON. DEPUTY SPEAKER: Yes.

SHRI RAVI SHANKAR PRASAD: That accountability process is very important. I have never spoken like this on this issue in the House, but today I think this message needs to go. Today judiciary says, 'One organ is not functioning well, so what should we do?' With great respect to the judiciary, this is a dangerous argument. Suppose you take a view that a corporation is not functioning well, we will take over the power, then the judiciary will also be held accountable on those questions.

Sir, many of the Members talked about separation of power. In the Kesavananada Bharati case, 13 Benches of the Supreme Court were held and they came with the idea of 'basic structure'. What is the meaning of basic structure? It means, we sitting in the Parliament

cannot change that basic structure while amending the Constitution. And one of the elements of the basic structure they said is the principle of separation of power. I would like to convey to the courts of India with great respect that if the principle of separation of power is there for us, it is also there for the judiciary to follow because that is the law of the land.

Since a lot of hon. Members showed their concern, I thought I must convey this process in very very clear words. सर, अब बात आती है कि वैकेंसी कैसे भरी जाए, मैं आपको कुछ संख्या बताना चाहता हूं। मैं पेंडेंसी पर ही बताऊंगा, अभी अपने यहां जो स्थिति है। जब हम आए थे, हमने हाई कोर्ट जजेज की संख्या बढ़ाई, लोअर कोर्ट जजेज की संख्या बढ़ाई। राजेद्र जी ने बार-बार लोअर कोर्ट्स की वैकेंसीज की बात कही। अभी लोअर कोर्ट्स के लिए 5,984 वैकेंसीज हैं। Mr. Sampath also mentioned about that. As a well-known lawyer, he should know that subordinate judiciary appointment is done by the High Court or upon their recommendation by the Public Service Commission. Neither the State Governments nor the Central Government has any power. As the Law Minister, what I have done is emphasize upon them the need for expediting it. I do not want to go into the matter as to which judge cried. It is the responsibility of the judiciary also to ensure that these vacancies must be filled up.

Many of the Members talked about all India judicial service. I am a great supporter of all India judicial service. I want to tell this here itself. Mr. Kalyan Banerjee is absolutely right that we need to have good quality intake for appointment as additional district judges and district judges to become High Court judges. But we are having some problem there. Do you know what the problem is? The High Courts feel it is their domain. I am trying to have a discussion; I am trying to persuade them. The point is well taken. If there is Indian Administrative Service, Indian Foreign Service and Indian Police Service, there is a need to have an All India judicial service having the best minds of India.

HON. DEPUTY SPEAKER: When you are going for this all India judicial service, reservation comes in.

... (*Interruptions*)

DR. A. SAMPATH (ATTINGAL): Sir, the House would like to hear you, but the mike is not working ... (*Interruptions*)

HON. DEPUTY SPEAKER: I said to the hon. Minister that when we are bringing this All India judicial service system, reservation can be provided. Otherwise, these people may not get this thing. That is what we are suggesting. The hon. Minister has to come forward on this.

... (*Interruptions*)

SHRI RAVI SHANKAR PRASAD: Sir, I am fully supportive of you. Suppose if a person from Scheduled Caste or Scheduled Tribe is appointed as a judge in All India Judicial Service, he will mature by reservation, and then become a district judge and a High Court judge. We will have very good intake. I know very good professionals are there. One of the reasons why I brought the National Judicial Commission was to spot the talent of these marginalized lawyers to be brought into the system.

**श्री धर्मद्वय यादव(बदायूँ):** सर, उसमें आपने बैकवर्ड क्लासेस को छोड़ दिया है।...(व्यवधान)

**श्री रवि शंकर प्रसाद:** वह मैंने पहले ही कह दिया है। ... (व्यवधान) Let me complete.

सर, मैं पूरे सदन की इस बात से अवगत हूँ कि भले सिस्टम हो कॉलेजियम का या सुप्रीम कोर्ट का, लेकिन समाज के हर वर्ग का रिप्रजेंटेशन होना चाहिए। यह बात बहुत सही है, इस बात से मैं सहमत हूँ और यह बात हमने बार-बार कही है। A lot of questions were asked about the MoP. Perhaps Mr. Kalyan Banerjee mentioned that. I totally agree with him. What we are saying is a great scrutiny, a greater screening is required so that you may not have to send a sitting judge to jail again.

You may not have to ask a retired Supreme Court Judge to seek apology again. There is a need for greater scrutiny and greater screening. That is a work in progress. I thought, I must convey that to you. ... (*Interruptions*)

SHRI KALYAN BANERJEE : When will it be completed? ... (*Interruptions*)

SHRI RAVI SHANKAR PRASAD: You are very much right. Let me tell you that we have not stopped the work at all. That is a work in progress.

Shri Kalyan Banerjee, I will talk to you outside Parliament and tell you many things. ... (*Interruptions*) मैं अनुराग जी को बहुत विनम्रता से बताना चाहूंगा कि कुछ विषय ऐसे होते हैं जो प्रक्रिया के होते हैं, संवेदनशीलता के भी होते हैं। जब ये पूरे हो जाएंगे तो मैं सदन को बताऊंगा। ... (व्यवधान) जब यह विषय पूरा हो जाएगा तब मैं आपको पूरा बताऊंगा क्योंकि सुप्रीम कोर्ट का फैसला है कि सरकार चर्चा करके इसको फाइनेलाइज करे। There are certain issues where we are insisting that there should be greater scrutiny and greater screening so that good people may come. ... (*Interruptions*)

SHRI KALYAN BANERJEE: We are supporting you.



**श्री रवि शंकर प्रसाद :** महोदय, एक बात आई कि कितनी पेंडेंसी है, तो मैं बता दूँ। मैं लोअर कोर्ट की बात बता दूँ। हाई कोर्ट में रिकमेंडेशंस प्रोसेस में है। हमने एक बात कही है कि आपको मुख्य मंत्रियों से भी बात करनी चाहिए। जो प्रदेश का मुख्य मंत्री है, उसको भी तो राज्यपाल के माध्यम से राय देने का अधिकार होना चाहिए। वह संवाद मीनिंगफुल होना चाहिए। अभी तक सरकार के विभिन्न स्तरों पर 129 प्रक्रिया में हैं।

There are 269 high court judges posts for which recommendations have already been received by the Commission. I thought I must clarify that. ... (*Interruptions*)

SHRI KALYAN BANERJEE: What about the six Supreme Court Judges? Tell us about that also.

**श्री रवि शंकर प्रसाद:** यह सही है कि सुप्रीम कोर्ट में 6 पद खाली हैं। यह भी सही है कि भारत के 9 हाई कोर्ट के चीफ जस्टिस एक्टिंग हैं। लेकिन माननीय कल्याण बनर्जी जी को मालूम है कि जब तक कोलैजियम अपनी अनुशंसा कानून मंत्री को नहीं करेगा तो हम क्या कार्यवाही कर सकते हैं? ... (व्यवधान) इसलिए हम अपने तरीके से यह चर्चा कर रहे हैं। आप थोड़ा उसमें संयम रखिए। मैं आपसे एक ही बात कहना चाहता हूँ... (व्यवधान) आप इस तरह के सवाल न खड़ा करें तो बड़ी कृपा होगी।

मैं सदन से एक बात अवश्य कहूँगा कि आपको अपनी बात कहने का पूरा अधिकार है। लेकिन देश के कानून मंत्री की कुछ सीमाएं हैं। उसको अगर आप समझेंगे तो बड़ी कृपा होगी।

एक बात इंफ्रास्ट्रक्चर के बारे में आई। यह सवाल बहुत अच्छा है कि इंफ्रास्ट्रक्चर के बारे में हमने क्या-क्या किया है। There is a Centrally-sponsored Scheme which is in operation since 1993-94. Till now, Rs. 6,010 crore have been released. Out of that Rs. 2005 crore have been released by the Narendra Modi Government. Therefore, 40 per cent of the funds under this Scheme have been released by the Narendra Modi Government. मैं बता दूँ कि अभी तक 17848 कोर्ट हॉल बन चुके हैं। 14085 रेसीडेंशियल अकोमोडेशन बन चुकी हैं और 2429 कोर्ट हॉल बन चुके हैं तथा 4172 रेसीडेंशियल अकोमोडेशन बन रहे हैं। कैबिनेट ने इस सेन्ट्रली स्पांसर्ड स्कीम को 3320 करोड़ रुपये की राशि पर तीन साल के लिए आगे भी बढ़ा दिया है।

एक सवाल बार-बार उठाया गया कि जैसे लोक सभा और राज्य सभा की प्रोसीडिंग्स लाइव प्रसारित होती हैं, उसी तरह से हाई कोर्ट और सुप्रीम कोर्ट की प्रोसीडिंग्स लाइव क्यों नहीं की जातीं? एक बात जानने की जरूरत है कि यह हमारा अधिकार नहीं है। यह अधिकार कोर्ट का है और कोर्ट की सहमति जरूरी है। यह चर्चा हुई है। उन्होंने स्वयं निर्देश दिया है कि पायलट लेवल पर दो डिस्ट्रिक्ट कोर्ट में शुरू करें। ... (व्यवधान) माननीय कल्याण बनर्जी जी को मैं बताना चाहता हूँ कि जिस दिन सुप्रीम कोर्ट स्वयं यह अनुशंसा करेगा कि हमारी इच्छा है कि सुप्रीम कोर्ट की प्रोसीडिंग भी लाइव होनी चाहिए, हम विचार करेंगे। उन्होंने अभी यही कहा है कि दो डिस्ट्रिक्ट कोर्ट्स में पायलट बेसिस पर बिना वॉयस के सीसीटीवी लगे। अभी उनका यह निर्देश है। हम कोशिश करेंगे कि आगे इसको और बढ़ाने की कोशिश की जाए।

श्री मोहम्मद सलीम (रायगंज) : चेयर से भी यही कहा गया था। ... (व्यवधान)

SHRI RAVI SHANKAR PRASAD: I would like to very gently make a request to this House. I have a great respect for this House. There was a very good debate today.

**18.00 hrs**

Let us respect the autonomy of the judiciary. These matters should be decided by the judiciary. We can at best advice them. I would like to tell the House very clearly that the day the Supreme Court will tell us that they want to live-telecast the proceedings of the Supreme Court, we will give everything that is required as we have done in the case of e-courts or video-conferencing in many district courts.

I may tell you that we are dealing with other matters expeditiously. I must tell you the positive aspects also.

HON. DEPUTY SPEAKER: It is 6 o'clock.

THE MINISTER OF CHEMICALS AND FERTILIZERS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI ANANTHKUMAR): Sir, I would request you to continue with the proceedings of the House till we pass this Bill which we have taken up. And also, till we finish with Item No. (30A) Supplementary Demands for Grants-Third Batch for 2017-18, Item No. (30B) The Appropriation Bill, 2017-18 and Item No. (30C), The Appropriation Bill, 2018. I would request you to continue the proceedings of the House.... (*Interruptions*)

HON. DEPUTY SPEAKER: Tomorrow being the last day, they have to go to the Rajya Sabha.

... (*Interruptions*)

SHRI ANANTHKUMAR: Sir, Members know that tomorrow is the last day of the Winter Session and this is the most important financial business. We would, therefore, request you to continue with the proceedings. That is the sense of the House, Sir.

SHRI MALLIKARJUN KHARGE (GULBARGA): Sir, we normally decide the business of the House in the Business Advisory Committee. Nowadays, we see that even agenda you are not

deciding in the BAC but deciding in the House. Bills are being included as and when the Government desire.

SHRI ANANTHKUMAR: Whatever is being discussed here is all decided in the Business Advisory Committee. The Committee has allocated the time also. It is very unfortunate. He is making such aspersions. Only this... (*Interruptions*)

SHRI MALLIKARJUN KHARGE : I would like to bring to your kind notice Rule 288. I quote:

“It shall be the function of the Committee to recommend the time that should be allocated for the discussion of the stage or stages of such Government Bills and other business as the Speaker, in consultation with the Leader of the House, may direct for being referred to the Committee.”

This is what the business transaction rule says but you are not going according to that. Neither you are allocating time nor sending the agenda in advance. Everybody does not have computer brains like Jaitley sahib. We have to study. The common man who does not know the law or does not know the economics or the budgetary system, he has to study first and then ask questions. In the Supplementary Demands for Grants you are proposing for so many thousands of crores and within one minute you want to pass it and take it to the Rajya Sabha. Sir, if you think it is fine and as per rule, then you can go ahead, I have no objection.

HON. DEPUTY SPEAKER: I have to take the sense of the House, whether the House agrees to extend the time of the House.

SEVERAL HON. MEMBERS: Yes, Sir.

SHRI BHARTRUHARI MAHTAB (CUTTACK): Sir, I am yet to understand the total amount of this third batch of the Supplementary Demands for Grants. It has not been circulated. We know the urgency.... (*Interruptions*)

SHRI ANANTHKUMAR: It has been circulated.

SHRI BHARTRUHARI MAHTAB : Where is it? I have been asking the Table Office.... (*Interruptions*)

**श्री रवि शंकर प्रसाद :** सर, मैं बता रहा था कि वरेण 2014-15 नेशनल ज्यूडिशियल कमीशन में चला गया, इसके बावजूद धर्मद्र जी में आपको बताना चाहूंगा कि वरेण 2016 में हम लोगों ने 126 हाई

कोर्ट जज बनाए, जो पिछले तीस सालों का हायेस्ट है।...(व्यवधान)

**श्री कल्याण बनर्जी :** कितने जजों का रिटायरमेंट हुआ, यह बताइए? ...(व्यवधान)

**श्री रवि शंकर प्रसाद :** माननीय कल्याण बाबू रिटायरमेंट हमेशा होता है।...(व्यवधान) वरेन 1989 से हर साल एवरेज 75 से 82 जजेज बनते थे। हमने वरेन 2016 में पिछले 30 सालों की तुलना में सबसे ज्यादा 126 जज बनाए और इस साल 115 जज अपांट किए हैं।...(व्यवधान)

SHRI KALYAN BANERJEE: You are saying that the collegium is not sending names. Therefore, you are not giving the appointments. Now, you are saying contrary to it that you have appointed. Now, you take one stand – whether the collegium is sending the names, thereafter you are appointing or collegium is not sending names.

\*m36

SHRI RAVI SHANKAR PRASAD: Kalyan Ji, with great respect, the collegium is there since 1993. Kindly keep it in mind. In spite of the existence of the collegium, we could make 126 appointments when there was a gap of one and a half years because of the case of National Judicial Appointments Commission. This shows that the Government is keen to expedite and will continue to expedite.

Now, I will speak about pendency on which a lot of discussions took place. A lot of questions have been raised on this. There are around 2,60,72,775 cases pending in District and Subordinate Courts as on December, 2017. ... (*Interruptions*) But, Sir, one thing is important to be noted that there is a decline in pendency of cases. On June 30, it was around 2,84,46,000 cases and as I said, it has come down to 2,60,72,775 in December 2017.... (*Interruptions*)

SHRI KALYAN BANERJEE : All those cases have become infructuous.

SHRI RAVI SHANKAR PRASAD: Have patience. But, what is important? Our Government is requesting and I have been emphasizing to expedite and dispose of the cases first which are pending for ten years. I must speak in favour of the judiciary. The former Chief Justice and the present Chief Justice have been requesting the judges to work on Saturdays. The hon. Prime Minister in a function at Allahabad High Court requested them to please forego your vacations and please expedite the cases. The judges have worked during vacations and they are

working on Saturdays also. This good work of the judiciary also needs to be appreciated. They have done it in Allahabad.... *(Interruptions)* let us not go side by side. They have done it in Delhi. ... *(Interruptions)* I know for sure that they have done it in the hon. Supreme Court also.

I am happy that hon. Shri Arun Jaitley Ji has also come. A lot of questions were asked about the fees of the lawyers. ... *(Interruptions)* Let me speak now. ... *(Interruptions)* I think I have been very frank. Now, as regards the fee of the lawyers, that too we are looking into. I think many of the lawyers also give free legal aid and advice. We have come up with a *pro bono* lawyer scheme. A large number of lawyers have come on board. They are willing to give free legal advice. We have come up with tele-law scheme with the common service centres. A poor daughter-in-law or farm labourers are being made to talk to the NALSA lawyers. About 18000 requests have come and about 12000 cases have been disposed of. I have always urged that lawyers, who make tons of money, also have an access for the poor. But, as far as the regulation of their fees are concerned, that profession is also autonomous and is governed by the rules of the Bar Council of India. That question will have to be considered. ... *(Interruptions)*

SHRI ADHIR RANJAN CHOWDHURY (BAHARAMPUR): How much fee is Shri Arun Jaitley taking?

SHRI RAVI SHANKAR PRASAD: You are asking for his fee. ... *(Interruptions)* Let me proudly say that he has given free legal assistance in at least hundreds of cases. I have known him for umpteen years. I have assisted him.

SHRI KALYAN BANERJEE: I endorse your view.

SHRI RAVI SHANKAR PRASAD: That is good. I know that all the lawyers, Kalyan Ji or Shri Sampath Ji or anyone who is present here have heart for the poor when they enter this House. I know they have given free legal aid and advice to the poor.

Sir, on the issue of Bench, many Members have talked about the Bench. I will not go into the specifics. I hope that they are aware of the law of the land. For setting up a Bench of any High Court, we need to have the concurrence of the principal Bench of the High Court. We can start operation only when the principal Bench of the High Court recommends for setting up of the Benches.

I have taken note of their concerns. Mr. Rajendra Agrawal has also talked about it. Once the main High Court recommends, we will surely take it up with an open mind. Many other issues have been raised. I think, I have, by and large, replied to the major issues.

With this, I would recommend to this House that in the same spirit which you have demonstrated in today's debate, we must pass this Bill regarding revision of the salaries of the Supreme Court and the High Court judges wholeheartedly and unanimously.

With these words, I conclude.

HON. DEPUTY SPEAKER: The question is:

“That the Bill further to amend the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration.”

*The motion was adopted.*

HON. DEPUTY SPEAKER: Now we will take up clause-by-clause consideration of the Bill.

The question is:

“That clauses 2 to 9 stand part of the Bill.”

*The motion was adopted.*

*Clauses 2 to 9 were added to the Bill.*

**Clause 1**

**Short title and commencement**

HON. DEPUTY SPEAKER: Shri Adhir Ranjan Chowdhury, are you moving your amendment?

SHRI ADHIR RANJAN CHOWDHURY : I beg to move:

Page 1, lines 7 and 8,-

*for* “1<sup>st</sup> day of July, 2017”

*substitute* “1<sup>st</sup> day of January, 2016” (1)

Page 1, lines 8 and 9,-

*for* “be deemed to have come into force on the 22<sup>nd</sup> day of September, 2017”

*substitute* “come into force on the day the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Act, 2017 receives the assent of the President”. (2)

श्री रविशंकर प्रसाद जी, आपको शायद यह जानकारी नहीं है कि हजारों की तादाद में लोग 25-30 वरों के लाइफ सेंटेंस की सज़ा भुगत रहे हैं। They are simply crying and looking at us. आप लीगल एड की बात कर रहे थे। वे लोग इतने सक्षम नहीं हैं कि सुप्रीम कोर्ट और हाई कोर्ट में अपील करने जा सकते हैं। उन लोगों को बचाने के लिए आप कोई कदम उठाएं, कोई मैकेनिज्म तय करें, यह मैं उनकी ओर से आपसे रिक्वेस्ट करता हूँ।

HON. DEPUTY SPEAKER: I shall now put Amendment Nos. 1 and 2 to Clause 1 moved by Shri Adhir Ranjan Chowdhury to the vote of the House.

*The amendments were put and negatived.*

*Amendment made:*

Page 1, line 5, -

*for* “2017”

*substitute* “2018” (3)

(Shri Ravi Shankar Prasad)

HON. DEPUTY SPEAKER: The question is:

“That Clause 1, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

*The Enacting Formula and the Long Title were added to the Bill.*

SHRI RAVI SHANKAR PRASAD: I beg to move:

“That the Bill, as amended, be passed.”

HON. DEPUTY SPEAKER: The question is:

“That the Bill, as amended, be passed.”

*The motion was adopted.*