

LOK SABHA DEBATES

LOK SABHA

Tuesday, June 2 1998/Jyaishta 12, 1920 (Saka)

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair]

[English]

MR. SPEAKER : Q. No. 81 - Shri Sushil Kumar Shinde.

(Interruptions)

[Translation]

SHRI MOHAN SINGH (Deoria) : Mr. Speaker, Sir, Yesterday the Finance Minister announced that the price of Petrol will increase by rupee one per litre but today we have seen that the price of Petrol has increased by Rs. 4/- per litre. In this way he has misguided the House and the entire country. . . . (Interruptions)

SHRI BENI PRASAD VARMA (Kesarganj) : No one has right to misguided the House in this manner. . . . (Interruptions)

SHRI TARIQ ANWAR (Katihar) : Hon'ble Minister should give clarification in this regard.

MR. SPEAKER : No-no, it is not so.

(Interruptions)

[English]

MR. SPEAKER : Please take your seat. This is Question Hour. After the Question Hour, you can raise it.

(Interruptions)

MR. SPEAKER : I will come to you after Question Hour. You can raise whatever points you want to after the Question Hour. I will allow you.

(Interruptions)

MR. SPEAKER : Hon. Members, there is also the Zero Hour. You can raise the point in the Zero Hour. Please take your seat.

(Interruptions)

SHRI P. SHIV SHANKER (Tenali) : This is a serious matter. It affects all the people. . . . (Interruptions)

MR. SPEAKER : I will allow you during Zero Hour. There is a procedure. Please understand it.

(Interruptions)

SHRI AJIT JOGI (Raigarh) : Kindly allow us in the Zero Hour. . . . (Interruptions)

MR. SPEAKER : Please take your seat. You are a senior Member. I will allow you.

Now, we take up Q.No. 81 - Shri Sushil Kumar Shinde.

11.03 hrs.

ORAL ANSWERS TO QUESTIONS

Life Convicts

*81. SHRI SUSHIL KUMAR SHINDE : Will the Minister of HOME AFFAIRS be pleased to state :

(a) the number of life-convicts in different States released on application from the convict after serving 14 years in Jail during the last three years and those who were released earlier than 14 years in jails;

(b) whether there are any guidelines under articles 14, 19 and 21 of the Constitution for release of such convicts; and

(c) if so, the details thereof?

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI) : (a) to (c) A statement is laid on the Table of the House.

Statement

(a) to (c) 'Prisons' is a State subject as per the Seventh Schedule to the Constitution of India. Specific information in regard to life-convicts as sought in part (a) of the question is not maintained by the Central Government.

Under section 433 Cr.PC, the appropriate Government is competent to commute a sentence of death, for any other punishment provided by the Indian Penal Code. Section 433A Cr. PC, however, provides that notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by laws or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment. Section 433A Cr. PC is thus applicable not to all life convicts but only to those convicted of capital offences. There is no such restriction on powers of remission or commutation so far as other life convicts are concerned. Provisions of section 433A Cr.PC do not seem to be violative of fundamental rights of life-convicts so far as articles 14, 19 and 21 of the Constitution of India are concerned.

It may also be mentioned that section 433A Cr. PC does not, in any way, affect the constitutional power of reprieve, remission, etc. vested in the President and the Governor of a State under articles 72 and 161 of the Constitution of India respectively.

[Translation]

SHRI SUSHIL KUMAR SHINDE : Mr. Speaker, Sir, though 'Prisons' is a state subject, Prison Act itself is 110 years old. The Chairman of Human Rights Commission and the former Chief Justice of Supreme Court, Justice Krishna Iyerji has drawn attention towards this aspect many a times but in spite of that, till date government has not taken any step in this direction. In Bihar jails, we find that three persons are kept against the capacity of only one person.

I would like to ask as to how it is being termed as a state subject? Discretionary powers are given to the Governors and President but Chief Ministers of the states also involve themselves in the matter of political murders. There are some incidents of murders in which criminals do not complete even 10 years of their imprisonment. There are cases of life-imprisonment in which criminals are released even before seven or eight years. Even after the decision and directions of the Supreme Court, such instances are being witnessed where some prisoners were released on parole and that period lasted for 10 years and after they were set free, whereas this period is not to be combined with actual period of imprisonment.

[English]

Though Parole time is not calculated in the actual period of imprisonment, yet they have been released.

[Translation]

Whether the government will think in this direction that there should be a uniform law for the entire country whether it is for 15 years or 10 years. Only after this period, the cases of those undergoing life-imprisonment should be considered for release.

SHRI L.K. ADVANI : Mr. Speaker, Sir, as far as the Question with regard to the condition of jails is concerned, I do agree with the hon'ble Member that there is a lot of scope for their improvement. Today their condition is very grave and deplorable. However, the question relates to a specific context and I feel that in this regard, Hon'ble Member has some misunderstanding that those who were awarded life imprisonment

[English]

for offences where the maximum punishment is life imprisonment,

[Translation]

there they can be released only when the period of 14 years is completed. However, in cases where such a crime has been committed for which capital punishment or a punishment lesser than the death sentence can be awarded or the Court has sentenced the convict to life imprisonment instead of passing a death sentence, it is essential to make a provision that the convict is not set free before completion of 14 years. Similarly, if someone is awarded capital punishment and after commuting, he is awarded life imprisonment even then he cannot be awarded less than 14 years of imprisonment. Therefore, this perception that in such cases Articles 14, 19 or 21 is violated is not correct. However, it is true that the subject 'Prisons' is in state list, and we cannot enact laws in this regard. In this connection, central government has been consulting Home Ministers from time to time and issuing necessary direction regarding condition of jails. The more serious question is that if there is a room for 1000 people, 4000 people are put there. There are persons who are kept under trials for 5 years. Central Government has always been expressing its concern over such various aspects. We cannot make any legislation in this regard. There are certain directions from Supreme Court which are followed. Overall, I share your concern.

SHRI SUSHIL KUMAR SHINDE : Mr. Speaker, Sir, Hon'ble Minister has said that they are not released before 14 years and there is a classification regarding cold blooded murder, simple murder, murder by lunatic and murder by a normal person with criminal intension. My contention was that the governments should conduct an inquiry into the cases where criminals charged with cold blooded murder are released due to political influence. I would like to ask whether such thing has happened? I would like to say only this thing. Government has said one good thing that it was worrying about undertrials. Justice Venkata Chellaiji visited the entire country and asked the Chief Ministers of different states about possible improvements. Chief Ministers of four states stated that improvement was required in their condition. Committee has also submitted its report which is with you. If the states desire that law should be made on the basis of national consensus, then such a law should be made so that it becomes a national document and all can follow that. As you have said, keeping undertrials in jails is a matter of concern, I would like to state for your information that in Andhra Pradesh during 1995-96 deaths of 55 under-trials and during 1996-97, 98 such cases were reported. In Bihar during 1996-97, 92 cases were reported. After this, I come to Maharashtra. In Maharashtra during 1995-96, there were 33 constodial deaths which increased to 200 in 1996-97.

MR. SPEAKER : You ask supplementary Question.

SHRI SUSHIL KUMAR SHINDE : Since the Home Minister has expressed his concern, that is why I am giving information to him. Maximum number of persons have died in Maharashtra. In the year 1995-96, 75 deaths were reported in Bihar but in 1996-97, 200 under-trial died in Maharashtra. It is a matter of concern. There are 1115 jails in the country. Justice Venkat Chaliah Committee has given its report in this connection which is with the government. Government is worried about it but there is no use of simply showing concern. It is necessary to take action on it.

SHRI SHANKER PRASAD JAISWAL : These statistics pertain to the time when your government was in power.

SHRI SUSHIL KUMAR SHINDE : I am telling him for his information. . . . (Interruptions) Please do not be under any illusion again. I am talking about 1996-97. In 1996 our government was not in power . . . (Interruptions)

MR. SPEAKER : You ask supplementary question.

SHRI SUSHIL KUMAR SHINDE : Whether government would seek opinion of the Chief Ministers and Jailors of all states by calling them to Delhi and whether it will take any step to prevent under-trial deaths, to give them some facilities and to separate lunatic department? At present all women and children are staying in one barrack. They should be kept separately. Sometimes they are kept in the prison for 5-10-15 years by branding them as lunatic. No psychiatrist visits them for their treatment. . . . (Interruptions)

MR. SPEAKER : You ask your supplementary question.

SHRI SUSHIL KUMAR SHINDE : Mr. Speaker, Sir, I am giving some information to Hon'ble Minister. I would like to know from government that whether by convening meeting of all Chief Ministers and Jailors of country and after having discussion with them on this subject, will it prepare a new manual?

SHRI L.K. ADVANI : Mr. Speaker, Sir, after receiving letter from Justice Venkatachellaiah, letters were written on behalf of Central Government to all Chief Ministers in this connection. Former Home Minister is present here. I can only say that it was suggested to the that if they agreed, a new Prison Act could be enacted at Central Level. It is necessary to obtain their consent on this issue because it is a state subject. We cannot do anything without their consent. At present, I can only say that the response was not satisfactory.

SHRI RAMA NAND SINGH : Mr. Speaker, Sir, it is very important issue. Prisoners undergoing life imprisonment in the jails of various states of our country cannot approach the Centre. In many jails, their condition is pitiable. They do not get any probation, they are not given any facility nor any concern is shown for their future. Will the Hon'ble

Home Minister state that whether the government of India propose to form any committee at Central level to improve prisoners their present condition and future of who are serving life imprisonment. The Committee should give its report after studying the conditions of prisoners so that it can be implemented in all states.

SHRI L.K. ADVANI : At present Human Rights Commission informs the Central Government from time to time on this subject. It has also informed about the condition of prisons. I do not want that by constituting some committee this matter is consigned to cold storage. Instead, on the basis of suggestions given by Human Rights Commission we have been sounding State governments, their Chief Ministers, and we are hopeful that there will be some improvement in this direction.

SHRI MOHAN SINGH : Mr. Speaker, Sir, the Hon'ble Home Minister's contention that Prisons Act is under the jurisdiction of the states is absolutely correct. The jurisdiction of evasion and giving remission in punishment is given to state governments under Section 443-A of Penal Law but in that Section of the term 'life imprisonment' has not been defined in I.P.C. From time to time Supreme Court has defined this in its judgment. In of its judgment; it was defined that 'life imprisonment' means entire life but afterwards it defined that life imprisonment means 14 years. Some states interpreted it as actual imprisonment for 14 years and some other states defined it as 14 years with provision for remission. Different states defined it separately on the basis of different criteria.

I would like to tell the Hon'ble Home Minister that in 1974, some changes were made in Cr. P.C. and with regard to capital punishment, Human Rights Commission has been insisting time and again that all countries of the world have stopped this practice. I would like to know from the Hon'ble Home Minister that keeping in view the amendments made in 1974 in this House in the Cr. P.C. of 1885, whether the government is ready to deliberate over making specific provision regarding redefining 'life imprisonment' in Cr. P.C. and giving remission in the sentence?

[English]

SHRI L.K. ADVANI : I can only say it is a suggestion for action.

[Translation]

There is no need to interpret original definition again because I feel that it is very clear. The issue of death sentence has been debated for a long time. I would like to inform this House that though prison is not a Central subject, even then the Central government is worried over this issue and since 1987, it has given Central assistance of Rs. 100 crore to states for the improvement of jails.