

[Sh. Sanat Kumar Mandal]

Government that this project maybe extended to cover Sunderbands area also, which skirts the Bay of Bengal, if not already done.

15.13 hrs.

MOTION REGARDING DISAPPROVAL
OF THE CONDUCT OF GOVERNOR OF
NAGALAND IN THE MATTER OF IN-
STALLING NEW GOVERNMENT THERE

[English]

MR. CHAIRMAN: The House will now take up further discussion on the following motion moved by Shri Dinesh Singh, on the 22nd May, 1990 namely:—

“That this House disapproves of the conduct of the Governor of Nagaland for the manner adopted by him in installing the new Government.”

Dr Biplab Das Gupta to continue his speech.

DR. BIPLAB DAS GUPTA (Calcutta South): Madam Chairman yesterday, while speaking on this issue, I made it patently clear that we feel that the way the Governor had acted in Nagaland violates the ground rules that have been laid down by the Sarkaria Commission. The position taken by the Sarkaria Commission was that if there is a dispute on this issue, the matter should be settled on the floor of the House. If the House is not in session, the Government concerned should be asked to hold a meeting, call the Assembly within 30-60 days or even earlier to prove their majority. Our position is that this issue should have been settled that way. There is no other way in which a proper verification can take place regarding the majority. Unfortunately, the Governor seems to have been in a hurry and he changed the Government without giving the Government which had been there time or the opportunity

to prove its majority, which we feel, was unfortunate.

At the same time, we cannot support the motion because the motion has been laid before the House by people, by Members, whose part records are not exemplary on this particular issue. We have found in the past that this very party which is now in Opposition had been responsible for the misuse of the power of the Governor and for the blatant partisan use of the Governor for serving their own interest. I would suggest that we should define the role of the Governor properly. Governor should be someone who is an intermediary, who should be functioning as the guardian of the Constitution to a certain extent; who is a friend, a philosopher and a guide of the Government. He should have the right to be informed. He should have the right to warn and encourage. At the same time, Governor should not be made a tool in the hands of the party in power.

It was Nehru himself who said as to who should be a Governor. He said that a Governor should be someone who comes from outside the State. He should be someone who is detached from the politics of the State; who is not politically involved and who is an eminent person. Unfortunately, these criteria have not been followed while selecting the Governor. The Sarkaria Commission, in its report, shows very clearly that between 1947-85 and particularly since 1980 about 60 per cent of the appointments made were of all those who had been in active politics only a few days or a few months ago. In fact, the Sarkaria Commission also made a point that since 1980, the proportion of active politicians has sharply gone up and that is the reason why this kind of misuse of the power of Governor takes place. It was Nehru himself, unfortunately, though a democrat by almost every other criteria—more democratic than all the Congress party members put together—in 1952 when he came to decide about the majority in Tamil Nadu and then in 1954 in Andhra Pradesh when the Communist party was in majority, who also played this game. He did not allow

the majority party to set up the Government and in fact, through the Governor put a Chief Minister in power who did not have the majority at that time but later on by way of defection he engineered the majority. Unfortunately, this convention regarding Governor was not followed by Pandit Nehru himself.

Later on, the post of the Governor has been disgraced in many other ways. We have been talking of crisis in Kashmir this morning. I would ask how it all began. It all began by way of defection engineered by the Congress Party. Through the downfall of the Farooq Abdullah Government, defection was engineered by no less a person than.....**.....

He himself went there with money; purchased the defectors and changed the Government.

SHRI EDUARDO FALEIRO (Mormugao): I am on a point of order The point of order is, please do not make these allegations of the nature that you have made, unless you have given notice to the Chair; you have made these allegations and the Chair has allowed you. Now, has the Member given notice? I am sure, he has not given notice. So, the Chair should never allow these kinds of allegations. Kindly Madam Chairman or Chairperson expunge these remarks. (*Interruptions*)

[*Translation*]

SHRI BRIJ BHUSHAN TIWARI (Domariaganj): This is not an allegation but a reality. (*Interruptions*)

SHRI JAGPAL SINGH (Hardwar): How can you say that money power was used to bring down that Government. (*Interruptions*)

[*English*]

DR. BIPLAB DAS GUPTA: It is not only

in Kashmir even in Andhra Pradesh...

SHRI EDUARDO FALEIRO: Madam, you first give your ruling on my point of order.

DR. BIPLAB DAS GUPTA: Madam I put it rhetorically.

MR. CHAIRMAN: Since you have raised this point of order, I will go through the proceedings. But as the hon. Member says that he has put it rhetorically...

SHRI EDUARDO FALEIRO: I can only agree if you expunge it.

MR. CHAIRMAN: I will go through the proceedings and let you know.

DR. BIPLAB DAS GUPTA: Same thing happened in Andhra Pradesh when Shri N.T. Rama Rao was ousted from the Chief Ministership. And recently in Karnataka also the same thing happened Defectors were purchased and they were made Ministers. So, the Congress Party has no right to talk about these issues and to talk about the question of principles. They cannot express moral indignation on these issues because their own hands are polluted. Therefore, they have no right to talk like this. At the same time, I would not put the Janata Dal on par with the Congress Party. We have greater expectation from the Janata Dal. Janata Dal has already established some important democratic norms. For example, the Deputy Speaker is a Congressman which was not done by the Congress Party. The Chairman of the Public Accounts Committee is a Congressman and not of the ruling party.

SHRI EDUARDO FALEIRO: No. the hon. Member is wrong. I am on a point of order, under Rule 376. As the Madam Chairperson in the Chair knows that it is the practice which is always followed without exception that the Deputy Speaker of this House is from the Opposition. It is the last time that... (*Interruptions*)

DR. BIPLAB DAS GUPTA: No. We do not take AIADMK as the Opposition group. We take it almost as a part of the Congress Party.

SHRI KADAMBUR M.R. JANARDHANAN (Tirunelveli): We also take you as the Janata Dal Party only. We do not take you as CPI (M) Party.

DR. BIPLAB DAS GUPTA: In any case, we feel that the party which is not in power has got much great moral responsibility. So, it has to demarcate itself from the Congress Party had done wrong things that does not justify for example using the post of the Governor in a way in which the Congress Party did. So, for that reason, the Party which is proposing the Lokpal Bill, the Party which is proposing the Prasar Bharathi Bill, the Party which is democratising the political system of the country through very heroic and very bold legislations, I have much greater expectations from that party. I would not judge you by their standards. They are not to be compared with the Congress Party.

SHRI EDUARDO FALEIRO: We also do not compare them with us. (*Interruptions*)

DR. BIPLAB DAS GUPTA: The other point that I would like to make is this. Take the case of defection. What is the history of defection? If you look at the history of defection, as long as defection was moving in one direction, there was no effort by the Congress Party to pass the anti-Defection Law. Because, they were the beneficiaries. Between 1967 and 1970, if you look at the statistics, out of all the Members of Parliament and Assemblies, 50 per cent defected. Then, one Member of House, who has made an international reputation in trading with human beings Mr. Bhajan Lal—he carries an international reputation—..... (*Interruptions*)

SHRI EDUARDO FALEIRO: I object to this.

SHRI ERA ANBARASU (Madras Central) He cannot make allegation like that.

MR. CHAIRMAN: I request the hon. Members to take their seats. Mr Das Gupta can defer himself very well. Please take your seats.

SHRI ERA ANBARASU: Madam, I am on a point of order.

MR. CHAIRMAN: No. The hon. Member is on his legs. You please sit down. Kindly let him continue.

(*Interruptions*)

DR. BIPLAB DAS GUPTA: In 1973, a Bill was proposed to be introduced for banning defection. the Anti-Defection Bill was proposed to be introduced in 1973. But then they allowed that Bill to lapse. Because they did not want defection to be stopped. Because they were the principal beneficiaries of the defection in those days. Later on, in 1985, why did they pass the law? They passed the law within a few days. They wanted to protect the majority by hook or by crook. (*Interruptions*)

[*Translation*]

SHRI JAGPAL SINGH: I want to mention here that it was Congress Party which brought forward the Anti-Defection Bill. Your party was in power in 1977. The credit does not go to them.

[*English*]

DR. BIPLAB DAS GUPTA: Through defections, they brought down many Governments. Don't forget that. In 1985, they passed the law, only after they had ensured the majority and the anti-Defection law has served them at will. Had there been no anti-Defection Law, the Rajiv Gandhi Government would have collapsed within two years immediately after the Bofors deal came into light. So, it did serve them quite well. The law which we have is now full of loopholes. It is an umbrella with many holes and as a result of which, you find that there are serious problems in interpreting as to what is proper

and what is not proper because the law has not been properly framed.

For example, you cannot throw out somebody if one-third of the Members have defected. You cannot banish somebody from Parliament if he has left the party, but continues to follow the whip of the party. there are many anomalies. It does not also take into account the fact that there may be many people who join another party because they are conscientious objectors. There is no difference between people who are lured by money, people who are lured by posts and people who are conscientious objectors, like the people who changed the party, from the Congress to the Janata Dal in the last year. They were conscientious objectors; they did not change the party, for Ministerial posts whereas people who were lured by money, lured by posts, they are the ones who should be penalised for defection which is why there are many anomalies in this law. (*Interruptions*)

MR. CHAIRMAN: I have not allowed other hon. Members. Let him continue.

DR. BIPLAB DAS GUPTA: I feel that the question of the role of the Speaker has become very very important, because in the Tenth Schedule, Clause 6, the power of the speaker has been made absolute, which means the Speaker decides whether a defection strictly means a defection or not. This has created all kinds of problems also. Under Clause 7, even the court cannot adjudicate on this. As a consequence, what is happening today? We find that Speakers come in all shapes, sizes and colours. There are Speakers and Speakers; and different Speakers give different instructions and different decisions. As a consequence, there is total confusion as far as anti-defection law is concerned. I hope Mr Goswami would take this point into account. I know they are discussion this. It is important that it is taken care of. (*Interruptions*)

MR. CHAIRMAN: You cannot address him. Mr Dasgupta, please look at me, and you can go on.

DR BIPLAB DAS GUPTA: He is interrupting me because truth is uncomfortable. Trough is uncomfortable to them, which is why they do not want me to speak. But at the same time, it is true.

What is the defection game? The game is that if you can take the Speaker along with you, then your problem is solved. In Goa, they took the Speaker with them. No problem. In Nagaland, they couldnot take the Speaker with them. There is problem, because in Nagaland, the Speaker has expelled some of the people who had defected. This is the issue.

Now the situation is this: Mr Dinesh Singh has raised this point namely whether the defection has been from the original Congress party or not. This is an issue on which there is no clear opinion. I have read a piece written by the Secretary—General of Lok Sabha, Dr Kashyap, which clearly says that on this particular issue, the situation is far from clear. What is the original party? Is Congress a party? Do they have a Constitution on membership? Do they have a programme? Do they have an election; do they change the leadership through an election? (*Interruptions*) No. whether the Congress as a party exist outside the legislature or not, is not clear. For that reason, whether there has been a defection in the original party, or not—who will decide it? (*Interruptions*) So, I would ask the question whether the Congress is a party or not. (*Interruptions*) That question has also not yet been decided.

It is not a question only of Nagaland. You know the question of Nagaland. (*Interruptions*)

MR. CHAIRMAN: Your turns are coming; you can all speak. You will have the opportunity. Mr Faleiro, you should know better than anybody else.

SHRI EDUARDO FALEIRO: Mr. Dasgupta, you should have a beginners' course about the Congress party.

DR. BIPLAB DAS GUPTA: Don't tell us all these things. We know as much about the Congress party as you do. Another thing is that I would say that the Congress party is a party of defectors. If you look at the history and biography of the congress members, you will find half of them are defectors. *(Interruptions)*

SHRI EDUARDO FALEIRO: From where did CPI (M) come? Madam Chairman, you are from the original party. These are not. *(Interruptions)*

If you go through their list you will find how many of them had left their own party. They left their party because they were lured by some high positions. When Mrs. Indira Gandhi was thrown out of power in 1977, how many of them were even loyal to her? When she came back to power in 1980, they came back. For building a party, the minimum you require is loyalty: loyalty to a cause, loyalty to the leadership, loyalty to the organisation. Where is the loyalty? They do not have the minimum of the loyalty. You cannot have a proper party system without loyalty. If you do not have a proper party system, then you cannot stop defection. *(Interruptions)*

I understand that the Chavan Committee had looked into this issue and had made a very important recommendation. They said, if somebody defects, then he should not be allowed to hold any Ministerial position; he should not be rewarded by defection. I would suggest that there should be a proper change in the law, that is, nobody benefits from defection; that should be the minimum which should be done so that this way of getting lured is stopped. I would also suggest that the power of deciding, whether it is a proper change of affiliation or defection, should be left not only to the Speaker alone, but there should be a proper scrutiny. Whether it should be the Governor; whether it should be some other authority, I do not know I cannot say anything about it. What I would suggest is this. It should not be subject to the absolute ruling of the Speaker; it should not be within the absolute power of the Speaker. If it is kept like this, then there will be conflicting

decisions in different parts of the country. You know what happened in Tamil Nadu. Sometimes when you are at the receiving end, you complain; sometimes when you benefit, you do not complain. That is your problem. You have no principle. Do not allow a defector to gain; do not allow a defector to benefit from defection.

SHRI T. BASHEER (Chirayinkil): What about the Prime Minister? Are you supporting him? *(Interruptions)*

• DR. BIPLAB DASGUPTA: He became the Prime Minister after winning the election. By defeating you, he became the Prime Minister. *(Interruptions)* I would appeal to all the members of the House, irrespective of party affiliation, that there should be a consensus of all the parties on this issue. Do not encourage defection. It does not matter to which party he belongs. Why is it that there is no defection from my party or the CPI or other left parties? Why was defection there only from your party or some other party? Why is it that there is no defection even from BJP? Although we have many differences with BJP we hold common ground on this. There is no defection from BJP because they have a party and a duly elected leadership they have their organisation; they have their membership; they have their conferences and elections. They have democracy in their party. Now the Janita Dal is also in the process of forming their party democratically. They have got a new President. They are holding their election. I hope it will be a properly structured democratic party. I also hope that it will be done soon. I also hope that the Congress Members would also have their proper membership, not bogus membership; their problem is that they are having bogus membership. *(Interruptions)* There should be properly constituted Congress Leadership, which is really supported by the rank and file of the Congress. Then only a proper democratic system can be established. In England, for example, Sir Winston Churchill changed his party affiliation only once. But every year people keep on saying about it; they said that Sir Winston Churchill had changes his party affiliation again and

again. In America, in Britain, in most of the countries you will find that, if the members change their party affiliation once people don't forgive them.

Very rarely you find there people changing their position, changing their party. Why does this not happen in India? Because, we have not been able to develop healthy conventions. Even from the Day of Independence we have failed to develop healthy conventions; conventions to establish a political system, a properly well-built party political system on which the democracy of the country can rest.

MR. CHAIRMAN: Please conclude.

DR. BIPLAB DASGUPTA: I will suggest to you, through the Chair-persons, and I also make this request to all of you, to please develop healthy conventions, so that the political system of the country, which is now rotten and stinking because of these defections is changed and will change into a system where people have some values, some ideals, some loyalty to a cause, to a programme and they are not motivated by their own opportunism and they cannot be bought and sold like cattle in the market.

MR. CHAIRMAN: Shri Dinesh Goswami, will intervene now.

THE MINISTER OF STEEL AND MINES AND MINISTER OF LAW AND MINISTER OF JUSTICE (SHRI DINESH GOSWAMI): The hon. Home Minister will reply to the debate. But some legal points have been raised on the law relating to defections and the matter relates to the North-Eastern regions in which I always take great interest. I have sought your permission to intervene in this debate.

Madam, I have listened to all the speeches delivered so far. Mr. Gurudas Das Gupta has widened the scope of the debate.

DR. BIPLAB DASGUPTA: I am not Gurudas Das Gupta. He is sitting in the other House.

SHRI DINESH GOSWAMI: Yes; Biplab Dasgupta; Dasgupta all the same.

Shri Dasgupta, while pointing out some of the weaknesses in the anti-defection law, has suggested that we should have a fresh look at it. I can only point out that the Committee which was set up recently by the Government to look into the various aspects of the electoral reforms has engaged its attention to the aspects and we have come to certain conclusions and we do hope that we will bring certain legislative measures, not in the current session of Parliament, but in the next session because what-ever we have suggested will require more interactions, interactions even with the Congress (I) because nay amendments to the Constitution will require their support. I can only assure Shri Dasgupta that the points that he has raised are under our attention now.

I listened to Mr. Dinesh Singh, My Distinguished colleague and when he spoke, he spoke without convictions. I can understand that he was in a difficulty, because he was speaking something which his party never followed in the past. He is speaking today that the Assembly should be the forum for testing whether a Minister commands the confidence of the majority or not. I am in agreement with him. But may I remind, him that when this demand was made by us in Karnataka it was completely overruled? Can he look now back to his own party's performance, whether it is the dissolution of the Karnataka Assembly or whether it is the dissolution of Andhra Pradesh Assembly, whether it is the dissolution of the other State Assemblies, did he or his party at any point of time follow this principle? But I am happy that a late realisation has come to his party and probably the greatest benefit the country will get from it because the Congress today is sitting in the Opposition and they are realising that what they did so long right from the Independence on some of the vital issue were totally undemocratic and unconstitutional.

Madam, I will give some facts. It appears that the entire debate has run because

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these facts have not come into the forefront of the members. They are under a wrong impression. But before that, I would like to respond to two very passionate speeches made by two distinguished members from the North-Eastern region, Mr. Shikiho Sema from Nagaland and Mr. Peter G. Marbaniang from Meghalaya. I may not agree with them so far as their contentions regarding the Governor's action are concerned. But I agree with them to a great extent, about their viewpoints on the North-Eastern region. I have constantly been pleading in this House that the North-Eastern region is one of the most sensitive regions in this country and all the hill States in this region, after a long time, have come to the national mainstream. We must not do anything which may hurt their susceptibilities and when they have come to the democratic process, we must not also do anything by which their confidence in the democratic process may be eroded. I have no two different opinions on that. And I can point out that after this Government has come into power, special attention has been given to the North Eastern Region. The Home Minister, with a strong team of Ministers, recently went to Guwahati, sat there with all the Chief Ministers and the Ministers of that region, with the officials, to discuss about the various plans and programmes for the development of the North Eastern Region, and today a concerted effort is being made for economic development of the North Eastern Region.

Now, coming to this Nagaland issue, it is unfortunate, as I feel it, that there has been change of party loyalties. I do not approve of change of party loyalties unless it is for a principle. But let us also not forget that changing of party loyalties has been a very common feature in the North Eastern Region. Let us also not forget that it may be because the party structure has not developed in the North Eastern Region; may be because the North Eastern Region depends to a great extent upon Central Assistance. There the people of the Government or even the legislators feel that it is always better to be on the

right side of the Centre to have economic benefit of that region. But may I remind Mr. Marbaniang who is from Meghalaya, he is not present here—he was speaking that even when Members leave their party, we should not encourage them to form a Government—what he did in Meghalaya. There was a contest between a national party and a regional party in the last election. The regional party won and immediately after that, some Members of the regional Party were drawn by Congress and the Congress formed the Government under the Chief Ministership of Mr. Purna Sangma. Now today, Mr. B.B. Lyngdoh, who at that point of time was a very good friend of mine, parted the company with Mr. Purna Sangma and formed a Government. May I ask Mr. Marbaniang; did you at that time advise the then Government at the Centre that it should not do so when a national party had been defeated by a regional party and it should allow the regional party to form its Government? Or is it that you take moral postures only when your shoe pinches. Unfortunately, this is the position. But the position is not the same in Nagaland.

Let us look to the facts and figures of Nagaland. Nagaland, just before the new Government has been formed, has sixty Members of thirty six a Congress (i) and twenty-four of Naga Peoples Council. From the 36 Members of the Congress, 12 Members broke away and they formed a party, the Regional Congress... (Interruptions)

[Translation]

SHRI SOMJI BHAJ DAMOR (Dohad):
Who was behind it?

[English]

SHRI DINESH GOSWAMI: We have no interest whether Jamir Ministry continues in Nagaland or Chief Ministry continues in Nagaland. What interest the National Front has? The National Front will give all assistance to any Ministry that is there. We have no interest in that. But whatever it is, after 12 Members really formed another group, two

of the Members were expelled by the Congress. Unfortunately, in the ultimate analysis, this has proved to be fatal for Congress. Two Members were expelled. Why? Because out of 36 Members, if 12 Members split under the Anti-Defection Law, it is one third and, therefore, they have a right to split. And in order to see that there may not be 12, two Members were expelled by the Local Congress (I). May I point out—I am not questioning the decision of the Speaker—that a pointed dispute was in this House as to whether a local unit of the Congress can disqualify a legislator? Can I not remind that here was a Member from Mizoram, a Member who was expelled by the local Mizoram Congress Committee? After he was expelled by the Local Mizoram Congress Committee, he fought an election as an independent candidate. The Congress Party submitted an application before the Speaker on the ground that the local Congress Party had no authority to disqualify that Member, that only the All India Congress Committee can disqualify the Member, and therefore his disqualification was void and he was a Member of the Congress party. And ultimately he was disqualified under the Anti-Defection Law though there were differences of opinion and Mr. Somnath Chatterjee was one of the dissenters on the ground that his expulsion by the local Party was wrong. May I ask: Did the hon. Speaker while expelling these Members take into account this aspect, this ruling given by this Parliament? But I am not interested in that. Two Members were expelled. Then ten Members were disqualified. Again the Speaker ruling is final. But may I point out that there are certain procedures for disqualifying a Member. Rules have been framed under the Anti-Defection Law, under clause 6 of the Anti-Defection Law, what do the rules say? Rules say that if a person is to be disqualified, then an application can be made by the party who feels that he should be disqualified because he has incurred disqualification. Rules say that notice should be given to that Member with a time limit of seven days to show-cause as to why he should be disqualified. The rules say that the Speaker before disqualifying a Members shall have to consider both the application

and the show cause notice and come to the conclusion. Did the hon. Speaker of Nagaland assembly issue show cause notice giving seven days' time to those Members to show cause why should not be disqualified and consider this show cause and the application before coming to the decision? No. Overnight they were disqualified. But under the Anti-Defection Law the decision of the Speaker however illegal it may be, cannot be questioned either in Parliament or in the Assembly or even in a court of law. Of course, whether it can be questioned in a court of law is still a debatable matter. But the fact remains that we cannot question it. I accept that decision. Now what happens? Even though prima facie it appears to me as a lawyer that this disqualification of the ten members is subject to question because ultimately the principles of natural justice and the protection guaranteed under the rules were not complied with. I am not going to question it. In a House of 60 when ten members are disqualified, then there are 50 members. What did the Governor do? The Governor only asked the hon. Speaker that the report had come to him that they had submitted resignations before actually you had disqualified them. If they had submitted resignations before they were expelled by the Congress, then they did not come within the split. Still he could look into the matter. If it is so, he may review the matter. But the Speaker afterwards informed the Governor that he had disqualified these ten members. The Governor said: "I accept it." These ten members now are no longer members of Nagaland Assembly. Therefore, Nagaland Assembly has 50 members today. All the members who have spoken including Mr. Dinesh Singh have suffered from a misapprehension that the Governor has over-ruled the decision of the Nagaland Speaker. If the Governor would have over-ruled the decision of the Nagaland Speaker, I would have been the first person to say that the Governor has no authority and jurisdiction to over-rule the decision of the Speaker. But one Governor did i.e. General Krishna Rao when Congress Party was in power in 1988. He questioned the decision of the Speaker on the question of split and ultimately the matter

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had to go to the Gauhati High Court. And the Division Bench of the Gauhati High Court for the first time in the constitutional history of this country, held that the Governor's action was untenable. And Mr. Dinesh Singh Speaks about morality to us. Where was Mr. Dinesh Singh on that day when the Governor questioned the decision of the Speaker? And he did not turn up when we raised that question on that side of the House. Mr. Dinesh Singh was a silent spectator on that day. Therefore, I appreciate that when he spoke today, he lacked the entire conviction. But what did Governor say? He said: "I accept the Speaker's ruling. Here are 50 members. What is the position before him? 24 Members of the Nagaland People's Party said that they are today solid. Two members were expelled. Unfortunately, they expelled two and were caught in a situation. If they did not expel the two, then there was a split. Those two expelled Members have said that they support Mr. Chisi. So 24 plus 2 is 26. In a House of 50 today Mr. Chisi has 26 members—24 belonging to one party and two who were expelled from the party and who have joined Mr. Chisi. The Governor asked Mr. Jamir: "Kindly show me that you command majority." At no point of time Mr. Jamir could tell the Governor that apart from 24 members that he has, he has the support of X, Y or Z. That is when the Governor has absolutely this situation that there are 26 Members on one side and 24 Members on the other. What does he do? Does he permit a minority Government to run? He has said it very clearly that, these ten Members are no longer Members of the Assembly. If you include them in your Council of Ministers, they shall have to be elected to the Nagaland Assembly with six months and then he said that within 30 days you must summon the Assembly to prove your majority. I am told that the Nagaland Assembly has been convened on the 31st of month. So, Mr. Jamir if he is in a majority, with 8 days he will be able to prove that he has the majority and he will become the Chief Minister.

I have always been of the view that

these things should be tested on the floor of the Assembly and I feel that even now it will be better if this message should go from here that the Governor should test these things on the floor of the House. But, can we today disapprove the action of the Governor when apparently *prima facie* there are 26 Members on the one side and 24 Members on the other side. Because 24 Members of the Nagaland Peoples Party, there is no defection from them. Two expelled Members have specifically stated that they were supporting this Government before expulsion. Now, before the Governor it was a dilemma. If he permits Mr. Jamir to continue in spite of the fact he is totally satisfied that there are 26 Members on one side and 24 Members on the other side, in spite of the fact that Mr. Jamir could not place any material before the Governor to show that bonafide of some Members is loyalty of under question Governor said that we have two alternatives either I go for President's rule, which he said would not be proper or the other alternative is minority Government to continue, which he decided not to do. If there had been an element of doubt regarding any of the 26 Members, I would have disapproved the action of the Governor. But, Shri Dinesh Singh is not in a position to say. Let him say apart from the 24 Members of the Congress Party, which other Members of the Nagaland Assembly are supporting Mr. Jamir. I can understand a case that certain Members' loyalty to X or Y is doubtful. In that case the Chief Minister should be allowed to continue and the trial of strength should take place in the Assembly concerned. And therefore, I do not think, in a case of this nature today we can really disapprove the action of the Governor. Let me also point out that the Governor was interacting with the Nagaland Chief Minister and the Nagaland Chief Minister first agreed to resign and then went back from his own words. Therefore, my submission will be that in this case I do not find that the Governor did anything wrong. He did not question the decision of the Speaker. He had accepted that decision of the Speaker that 10 Members have been disqualified and they are no longer the Members of the House. He has accepted the position that Nagaland Assembly had 50 Members. He has made it

clear that if any of the persons is taken in the Ministry, he shall have to seek re-election. One point was made by Mr. Malviya that one person had disqualified. No person who has been disqualified should be taken in the Ministry. That is a point to be noted by the Chief Minister. But the Constitution does not permit the Governor to dictate to the Chief Minister as to whom he will take into the Government or whom he will not take into the Government. The Governor has no jurisdiction and the authority under the Constitution to say that in your Ministry you can take Y, or you can not take X. This is a prerogative of the Chief Minister. And, therefore, Governor has made it absolutely clear that if you take somebody who has been disqualified despite the Speaker, then he can be Minister for six months without being a Member of the House. Now, this is another lacuna of the Anti-Defection Law, that the defected Member can be in the Government for six months, a lacuna which was not taken care of the last Anti-Defection Law. Therefore, we say that the Anti-Defection Law should have a fresh look. A hue and cry is often made out that we intend to dilute the Anti-Defection Law. This Government do not want to dilute the Anti-Defection Law. But there are so many loopholes some which of were apparent at the time when the Bill was passed and some of which have become apparent after the Bill has been in operation, and these we want really to plug. Therefore, Madam Chairperson, I would submit that in this case the Governor has done what he considered to be in the best of his judgement and there is no reason to disapprove of his conduct. So, I will again say that I will like that the Governors should note that if possible, unless there is an absolutely *prima facie* case, the test should not be the house of the Governor, the test of the strength should always be in the Assembly. Thank you, Madam Chairperson.

MR. CHAIRMAN : Now, I call upon Shri Nitish Kumar to make a statement...

(Interruptions)

SHRI DINESH SINGH: What about my reply, Madam?

MR. CHAIRMAN: He has only intervened. The Home Minister ultimately will reply.

SHRI BHOGENDRA JHA: I would simply like to seek one clarification, Madam. The Minister has made out his case very well. But one thing is that when the Governor, according to him- and that we believe- was convinced that the Ministry of Mr. Jamir had been reduced to minority, then, at that point, could he not direct the then Chief Minister, Mr. Jamir, to test his strength in the Assembly with ten days, fifteen days or whatever it may be? That he did not do and the other Ministry came in. So, in that case: (Interruptions)

SHRI DINESH GOSWAMI: Yes, he could have. But supposing I am a Governor and I am fully satisfied that twenty-six out of fifty Members were there—because here the mathematics is very simple; twenty-four of the Nagaland People' Party and two expelled Members were there—then I will be acting. Then, in that case, I will not be discharging my Constitutional responsibility if, after full knowledge and conviction, I allow a minority Government to continue even for an hour. That is a judgement which I must take and, therefore, the Governor took the correct decision in my view...

SHRI EDUARDO FALEIRO: I am on a point of order, Madam.

MR. CHAIRMAN: You know at four o'clock we have to take up another discussion and before that Shri Nitish Kumar has to make a statement.

SHRI EDUARDO FALEIRO: You can take it up at four o'clock but I am on a point of order. I would just like to mention this that now the rule of the House, as per the Rules Committees, is that clarifications in the Lok Sabha can be asked from the statement of the Minister. That is the position.

Situation arising out of cyclonic

MR. CHAIRMAN: You can do that later on. He has only intervened. Now I call upon Shri Nitish Kumar to make the statement.

16.00 hrs.

STATEMENT BY MINISTER

Situation Arising out of the Cyclonic Storm in the Bay of Bengal and the Relief Measures Undertaken by the Central Government and Government of Andhra Pradesh, Tamil Nadu and Union Territory of Pondicherry

[*Translation*]

THE MINISTER OF STATE IN THE DEPARTMENT OF AGRICULTURE AND COOPERATION IN THE MINISTRY OF AGRICULTURE (SHRI NITISH KUMAR): Mr. Chairman, my colleague Shri Upendra Nath Verma had already apprised the House on 10.5.1990 on the situation as arising out of the cyclonic storm in Andhra Pradesh. Since some more details are available now, I thought it proper to seek leave of the House to make a statement about the latest situation on damage and relief measures undertaken so far.

As the Hon. Members are aware, the

severe cyclonic storm with a core of hurricane wind crossed South Andhra Pradesh coast near the mouth of the river Krishna (South of Machilipatnam) on the evening of 9th May, 1990. It was accompanied with wind speed of about 200 to 240 km. per hour and a surge of 5 to 6 meters. Under its influence, heavy to very heavy rainfalls were recorded at a few places in North Tamil Nadu, coastal Andhra Pradesh, coastal Orissa and at one or two places in Gangetic West Bengal and Tripura.

All the coastal districts of Andhra Pradesh bore the brunt of this cyclonic storm. The districts of Krishna and Guntur were worst affected. The other affected districts are West Godavari, East Godavari, Prakasam, Vishakhapatnam, Vizianagram, Srikakulam and Nellore. The other marginally affected districts are Khammam, Mehboobnagar, Warangal, Nalgonda and Chittoor. Some parts of these districts were inundated due to floods and heavy rains. The impact of the cyclone was also felt in a few places, though not severely in the State of Tamil Nadu and Union Territory of Pondicherry.

As per the latest report received from the Andhra Pradesh Government, the position with regard to the loss of life and damage to property as on 22nd May, 1990 is as follows:

1.	Districts affected	:	14
2.	Population affected:	:	107.07 lakh
3.	Villages affected	:	5,717
4.	Human Lives lost	:	976
5.	Cattle heads lost	:	22,184
6.	Sheep/goats died	:	42,950
7.	Poultry birds died	:	36.98 lakh
8.	Ducks died	:	6,274
9.	Houses Damaged	:	9.19 lakh (4.79 lakh Partly