

15.51-1/2 hrs.

**SUPPLEMENTARY DEMANDS FOR
GRANTS (GENERAL), 1990-91**

[*English*]

THE MINISTER OF FINANCE (PROF. MADHU DANDAVATE): Sir, I beg to present a statement (Hindi and English versions) showing the Demands for Supplementary Grants in respect of the Budget (General) for 1990-91 [Placed in Library See No. LT 1227/90]

15.58 hrs.

**CONSTITUTION (SEVENTY-THIRD
AMENDMENT) BILL***

(Amendment of the Ninth Schedule)

[*Translation*]

THE MINISTER OF TEXTILES AND MINISTER OF FOOD PROCESSING INDUSTRIES (SHRI SHARAD YADAV): I beg to move that leave be granted to introduce a Bill further to amend the Constitution of India.

[*English*]

MR. DEPUTY SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

MR. DEPUTY SPEAKER: Are you objecting to the introduction of both the Bills?

SHRI P.R. KUMARAMANGALAM (Salem): Yes, I want to know which one has been moved? I will take up the Bills one by one.

MR. DEPUTY SPEAKER: The Constitution (Amendment) Bill has been moved by Shri Sharad Yadav.

SHRI P.R. KUMARAMANGALAM: I have strong reservations.

MR. DEPUTY SPEAKER: The only point which you can make is about the legislative competence. Let me know how this House has no legislative competence?

SHRI P.R. KUMARAMANGALAM: My only ground is that it affects the basic structure of the Constitution.

MR. DEPUTY SPEAKER: What is the basic structure?

SHRI P.R. KUMARAMANGALAM: I am coming to that point. This Constitution (Amendment) Bill is basically meant to give protection—in the Ninth Schedule—to the Handloom Weavers (Reservation of Articles for Production) Act, 1985. This is an Act of 1985. In the year 1990 they seek to put it beyond the judicial purview by putting it in the Ninth Schedule. The objective seems to be to protect the poor handloom weavers from the encroachments made in their livelihood by powerlooms and organised mill sector. Fundamentally, there is a mistake in the Statement of Objects and Reasons itself.

16.00 hrs.

Because the powerloom weavers, essentially the small powerloom weavers are nothing but persons who are handloom weavers, who are attached to the motif of the handloom. It is not necessary that it has to be the large powerloom. So, when one is thinking of that and one blocks 22 varieties of textile products for handloom sector, by this, one is effectively ensuring by putting it beyond the judicial purview that legal rights which are available in the Constitution including the Fundamental Right of Equality goes beyond the pale of challenge. I do not think, this Parliament has the authority to put

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any and every law which it feels in the Ninth Schedule. There has to be a direct nexus with the Directive Principles of State Policy. Unless they can show a direct nexus between the Directive Principles of State Policy: (*Interruptions*)

MR. DEPUTY SPEAKER: Do you mean to say that the Constitution cannot be amended?

SHRI P.R. KUMARAMANGALAM: Not at all. It cannot be amended to affect the basic structure. That is the ruling... (*Interruptions*) Affecting the basic structure I am making it clear.

MR. DEPUTY SPEAKER: This is not a point on which there is no final verdict given in this House.

(*Interruptions*)

SHRI P.R. KUMARAMANGALAM: I am sorry, I am raising a fundamental issue. A ruling can be given. If I may point out, the Supreme Court has laid down that under Article 358, when you amend the Constitution, you cannot amend the Constitution to the extent of affecting the basic structure.

MR. DEPUTY SPEAKER: What is the basic structure?

SHRI P.R. KUMARAMANGALAM: The basic structure of the Constitution has been spelt out, not so specifically by the Supreme Court itself in the case of ... (*Interruptions*)

MR. DEPUTY SPEAKER: Where? Not in the Constitution.

(*Interruptions*)

SHRI P.R. KUMARAMANGALAM: You kindly listen to me. After you hear me out... (*Interruptions*)

MR. DEPUTY SPEAKER: Please, we cannot prolong this discussion.

SHRI P.R. KUMARAMANGALAM: I am not prolonging the discussion. The Deputy Speaker is challenging me when I am placing my viewpoint. I am not saying I am always right. The Deputy Speaker may hear me out and then the Deputy Speaker may give a ruling. The basic structure definitely cannot be violated. (*Interruptions*)

MR. DEPUTY SPEAKER: We have not of business.

SHRI P.R. KUMARAMANGALAM: I am not taking time. I was finishing. You are not even allowing me to make a statement. Humbly, if I may submit, I am just completing the statement and leave it to the House to decide.

MR. DEPUTY SPEAKER: At this time, you cannot make a long speech.

SHRI P.R. KUMARAMANGALAM: I am not making a long speech. It is your cross-examination which is constraining me to make a long speech. What I am saying is that you cannot take away the right of judicial review in any and every law. You must do it only where you can show and establish that it has direct link with the Directive Principles of State Policy. That is why I say that the Statement of Objects and Reasons do not show that. Therefore, I say it is necessary for you to show so. Otherwise, you do not have the legislative competence. That is all my plea is.

[*Translation*]

THE MINISTER OF TEXTILES AND MINISTER OF FOOD PROCESSING INDUSTRIES (SHRI SHARAD YADAV): Mr. Deputy Speaker Sir, there is no need to say anything in this matter.

[*English*]

MR. DEPUTY SPEAKER: I do think that this House has legislative competence and the Bill will be allowed to be introduced.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India."

The motion was adopted

[*Translation*]

SHRI SHARAD YADAV: I Introduce the Bill.

16.03 hrs.

**Multi-State Cooperative Societies
(Amendment) Bill***

[*Translation*]

THE MINISTER OF STATE IN THE DEPARTMENT OF AGRICULTURE AND COOPERATION IN THE MINISTRY OF AGRICULTURE (SHRI NITISH KUMAR): I beg to move that leave be granted to introduce a Bill to amend the Multi-State Co-operative Societies act, 1984."

[*English*]

MR. DEPUTY SPEAKER: Mr. Kumaramangalam to speak.

SHRI P.R. KUMARAMANGALAM (Salem): I drop it.

MR. DEPUTY SPEAKER: The question is:

"That leave be granted to introduce a Bill to amend the Multi-State Cooperative Societies Act, 1984."

The motion was adopted

[*Translation*]

SHRI NITISH KUMAR: I introduce the Bill.

16.04 hrs.

MATTERS UNDER RULE 377

(i) Need for providing adequate facilities to the migrants from the Kashmir valley

[*English*]

SHRI JANAK RAJ GUPTA (Jammu): A large number of persons migrated from Kashmir Valley due to unavoidable circumstances are living in camps or otherwise in Jammu, Delhi and other places. But no adequate arrangements have been made by the Government for their livelihood. No residential accommodation and other facilities are provided to them. I would like to urge upon the Government to make adequate arrangements for their livelihood accommodation and education for their children till they go back to their homes.

[DR. THAMBI DURAI *in the Chair*]

16.05 hrs.

(ii) Need for setting up a National Institute of Visakhapatnam to study cyclone behaviour and suggest remedial measures

SHRIMATI UMA GAJAPATHI RAJU (Visakhapatnam): The coastal Andhra Pradesh area is often subjected to severe cyclone storms. Although the advance weather warning systems have improved yet the disaster in terms of human lives, properties and farm land has been tremendous during the cyclone which hit Andhra recently. The destruction of irrigation systems and the damage to farm lands by cyclones and floods have long term adverse economic repercussions. It is therefore imperative that an effective scientific way is evolved to study cyclone behaviour in conjunction with advance planning for disaster mitigation and rehabilitation procedures. The Government should set up an institute of