

17.41 hrs.

STATUTORY RESOLUTION RE :
DISAPPROVAL OF REQUISITION-
ING AND ACQUISITION OF
IMMOVABLE PROPERTY (AMEND-
MENT) ORDINANCE
AND
REQUISITIONING AND ACQUI-
SITION OF IMMOVABLE PRO-
PERTY (AMENDMENT) BILL

[English]

MR. DEPUTY SPEAKER : Now we go to the next item. We take up items 12 and 13 together. The time allotted is one hour for this discussion.

Prof. Saif-ud-din Soz,

PROF. SAIFUDDIN SOZ (Baramulla) :
I beg to move :

“This House disapproves of the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985 (Ordinance No. 2 of 158) promulgated by the President on the 8th March, 1985.”

Why I move this resolution is that this ordinance was promulgated by the President on 8th March and Parliament was meeting on 13th March. The President has powers to promulgate ordinances but normally ordinances will be promulgated when there is an emergency. Now the Bill and the ordinance that is available with me is a very small amendment. Since the period of 15 years which was the period for which they could requisition a property or land was expiring on 10th March, there was some urgency. Therefore, President promulgated the ordinance on 8th March. But I would like to ask a question as to why this Bill was not put before the House in the earlier session. We met in January. It shows that in the departments there is terrible slackness and when this ordinance was passed ultimately by the President, the Parliament was taken for a ride.

I take this ordinance and many such ordinances as an affront to the dignity of

Parliament. The question is : when Parliament was meeting on the 13th, why was the ordinance promulgated on the 8th? Now people outside Parliament do not know these niceties. Now they want to extend the requisition period by 2 years. Instead of 15 years they would like to make it 17 years and who knows after 2 years they will not come forward again for another amendment for an extension by 2 years because they are not definite. It is not a question of the Works Ministry. It is a question of all Ministries put together and I think this is a great encroachment on the authority of the Parliament and the slackness in the Department gets extended to the President's table where there is no option for the President but to promulgate the ordinance and thereby the dignity of the Parliament gets eroded.

Then a further question arises. For 15 years they can requisition a property or land. That was the period. They were not sure how much more time they would require. This time they have come forward with an amendment that they would require a further 2 years. But for all these years they have requisitioned properties and lands and already they have 200 properties under requisition involving some 400 acres of land and most of it is waste because it is not used for anything. It is a national loss. So, the departments have to be vigilant and take decisions in time and not organise the process whereby the dignity of Parliament is eroded and then come forward with Ordinances.

Sir, the general public have a feeling that Parliament has become a rubber stamp. On 8th March you promulgated an Ordinance and on 13th March the Parliament was meeting. It is only for the sake of this principle that I have moved this Resolution and I want to remind not only the hon. Works & Housing Minister but also the entire House how long ago Mr. Mavalankar, perhaps the greatest man who sat in this Chair, had raised this issue in the Conference of the Presiding Officers and I quote :

“It was obviously a wrong convention for the executive Government to

[Prof. Saifuddin Soz]

promulgate Ordinance merely because of shortage of time. That power was to be exercised only when there was an emergency and the legislature could not meet. It was not a desirable precedent to promulgate Ordinance for want of time as inconvenient legislation might also be promulgated in that manner."

So, many wrong things could be done through Ordinances if you form the habit of issuing Ordinances before the Parliament is to meet. I would also like to quote what Mr. Mavalankar wrote to the Parliamentary Affairs Minister at that time in this respect. I quote :

"The procedure of the promulgation of Ordinance is inherently undemocratic. Whether an Ordinance is unjustifiable or not the issue of a large number of Ordinances has psychologically a bad effect. The people carry the impression that Government is carried on by Ordinances. The House carries a sense of being ignored and the Central Secretariat perhaps get into the habit of slackness which necessitates an Ordinance and an impression is created that it is desired to commit the House to a particular legislation as the House has no alternative but to put its seal on matters that have been legislated upon by ordinance. Such a state of things is not conducive to the development of best parliamentary traditions."

Sir, in reply to the above letter this is what Jawahar Lal Nehru as Prime Minister wrote on 13th December, 1950. I quote :

"I think all my colleagues will agree with you that the issue of Ordinance is normally not desirable and should be avoided except on special and urgent occasions."

And, now hereafter I can only request you, Mr. Deputy Speaker, that you have

to rise to the occasion and protect the honour and dignity of this House. So, I press this Resolution.

THE MINISTER OF WORKS AND HOUSING (SHRI ABDUL GHAFOR)
Mr. Deputy Speaker, Sir, I beg to move :

"That the Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952, as passed by Rajya Sabha, be taken into consideration."

Sir, the power of the Government to requisition immovable property has been in existence for over four decades. According to the Act as amended by the Amending Act of 1980, properties requisitioned on or before 10th March, 1970 are to be de-requisitioned within 15 years, i.e., by 10th March, 1985.

After the passing of the Amendment Bill in Parliament in the year 1980, the Ministry of Works and Housing has released from the requisition during the period April 1980 till now, 102 properties. The Ministry of Works and Housing is also taking steps to release from requisition the remaining requisitioned properties early.

The total number of properties requisitioned by various Ministries/Departments all over the country is less than 200 in number and about 8,400 acres of land. Most of the land, however, has been requisitioned by the Ministry of Defence. It is, however, the intention of Government to keep a strict watch over the properties requisitioned by various departments and Union Territories so as to ensure that all the properties requisitioned on or before 10th March, 1970 are released from requisition within two years and timely action is taken for releasing the other properties, within the period specified in the Act. Considering the revision of compensation and the programme releasing the properties, the amendment proposed to be made will not act harshly against the individuals whose property is under requisition.

In view of this position, it is necessary to amend the Act so as to extend the

maximum period of retention of requisitioned properties by a period of two years. As the period of retention of such properties requisitioned on or before 10th March, 1970 would have expired on 10th March, 1985 and some of the properties including land are under occupation of Ministries like Defence and Communications and Delhi Administration, etc., and Ordinance was promulgated on the 8th March, 1985 to enable Government to retain requisitioned properties for a further period of two years. The Bill seeks to replace the Ordinance.

With these words, I commend the Amending Bill, as passed by the Rajya Sabha, for the consideration of the House.

MR. DEPUTY SPEAKER : Motions moved :

First one is the Resolution moved by Prof. Saifuddin Soz :

“This House disapproves of the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1985 (Ordinance No. 2 of 1985) promulgated by the President on the 8th March 1985.”

Next is the Amendment Bill moved by Shri Abdul Ghafoor :

“That the Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952, as passed by Rajya Sabha, be taken into consideration.”

—Both the Resolution and the Bill are before the House.

SHRI SUDHIR ROY (BURDWAN) : Mr. Deputy Speaker, Sir, the Government has introduced the Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952, as passed by Rajya Sabha.

I agree with Prof. Saifuddin Soz that

the promulgation of this Ordinance was extremely unhappy because the Government could have brought the Bill earlier before the House. In a democratic State the Government has to respond to the various needs of the people. It has to make requisitioning and acquisition of properties of private citizens. But, it is often found that rich people are spared at the cost of the poor people.

When requisitions are made in respect of properties of individual citizens, it is often found that poor farmers, marginal farmers and people belonging to low-income groups suffer because their properties are requisitioned and they do not get rent at the prevailing market rate. If they move the Courts, they do not get justice. In this country, getting justice is a time-consuming process. It is beyond the reach of the common people.

Therefore, what I ask for is a categorical assurance from the hon Minister that when properties are requisitioned, the poor people should be paid rent or price at the prevailing market price. There should be full justice rendered to them. This is my request.

With these words I conclude.

PROF. N.G. RANGA (Guntur) : Mr. Deputy-Speaker, Sir, I would like to say a few words. I would be untrue to myself if I were to let go this opportunity to advise the Minister for Parliamentary Affairs in regard to the proclamation of these Ordinances. It is a wrong procedure and the late Speaker, Mr. Mavalankar, gave a proper warning to the Government as a whole and to the only Ministry which can be expected to advise the Ministries in the Government or their Administrations to ensure that they would come to the House in proper time for its sanction for whatever measure they want and they should not resort to this lazy man's undemocratic method of promulgating Ordinance a few weeks, a few days, before the Parliament meets and thereafter place this kind of legislation more or less as a kind of *fait accompli* and short-circuit the procedure. Therefore, I would like to advise the Parliamentary

[Prof. N.G. Ranga]

Affairs Ministry to circulate it to all the Ministries so that they would not countenance this kind of procedure to be followed hereafter and they should ensure that every piece of legislation, first of all, goes through the usual normal course for approval by Parliament by placing the Bills in time before Parliament and the administration should not be allowed to go on waiting until almost the last minute or date and then embarrass the poor Minister and force him to resort first to Ordinance and thereafter to be taken to task by Parliament. I hope the Ministries concerned would take proper warning from the protest made by my hon. friend in right time. I congratulate him.

[Translation]

SHRI C. JANGA REDDY (Hanamkonda): Mr. Deputy Speaker, Sir, the Bill seeks to extend the period for which a peasant's land could be requisitioned from 15 years to 17 years. You want to extend the acquisition period for two more years, for which also they should be given compensation. Are you giving that or not?

SHRI GIRDHARI LAL VYAS (Bhilwara): Mr. Deputy Speaker, Sir, I support the Requisitioning and Acquisition of Immovable Property (Amendment) Bill.

Prof. Soz has taken strong objection to the promulgation of the Ordinances. In

this connection, he has also cited the ruling of Shri Mavalanker. I want to ask him how many times the Kashmir Government have promulgated ordinances? Has he ever raised any objection against those ordinances?

Why have these ordinances to be issued? Has the Professor Sahib ever tried to find out the number of ordinances promulgated in India and in his State? The need for promulgation of such ordinances arises because our officers fail to apprise the Government of the position in time. They have to be promulgated because of such lapses. These ordinances are promulgated because officers fail to warn the Government about some wrong work being done. This is the reason. Therefore, warning should be given to those officers who are working in that department and because of whose lapse the ordinance was promulgated. The hon Minister has done all this to save them. Hence, there must be some provision to proceed against those who are at fault. This type of provision is absolutely necessary.

[English]

MR. DEPUTY SPEAKER: You may please continue tomorrow.

18.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Thursday, March 28, 1985 / Chaitra 7, 1907 (Saka)