

taken by the Ministry, and in the Demands also many things have been mentioned. But I wish that more finance be made available for the development and encouragement of sports and cultural activities such as music, debates, dramas and youth festivals in schools and colleges at the State level as well as at the national level.

I also wish to request the hon. Minister that the merit students coming out of each faculty must be given awards on a national level. One student from each faculty, must be selected and may be given an award by the President. This will serve as an incentive for the other students and will encourage the student community to improve their standards.

Steps must also be taken to improve the health of the student community. Health centres must be there in every University and record of the medical history of every student must be kept there. We can also make available the blood group of that student in such health centres and we can provide other medical facilities to the student community.

A few months back a thinking was going on in the meetings of the Vice Chancellors in many of the States that elections to the students' unions in the colleges and universities must be banned. Such a thinking is not proper. We are living in a democratic society where every person has been Constitutionally given a right to vote to choose his own representative. The democratic principle, must be developed in a student right from the college stage so that he can be a good democratic citizen of our country.

Lastly, I would say a few words about the financial provision for education. It is very unfortunate that such an important subject does not get enough finance. Only five per cent of the total budgeted outlay is provided for education. It will be necessary to increase considerably the total expenditure on education if massive and urgent

steps for educational development are to be implemented. We spend thousands of crores of rupees on building bridges, hotels and other structures that are to be used by the citizens. But we spend not even a quarter of that amount directly on the healths and consciousness of the citizens who will be using those constructions. Any restructuring of education must, therefore, begin with re-defining the Plan priorities in the Seventh Plan even if it means cutting back into other sectors.

With these words, I once again support the Demands for Grants of the Ministry of Education and I thank you, Mr. Depuey-Speaker, for having given me this opportunity to speak.

STATEMENT RE: PROMULGATION OF TEA COMPANIES (ACQUISITION AND TRANSFER OF SICK TEA UNITS) ORDINANCE, 1985

[English]

MR. DEPUTY SPEAKER : Mr. Vishwanath Pratap Singh to make a statement.

PROF. MADHU DANDAVATE (Rajapur) : Sir, I rise on a point of order. I do not know the contents of the statement, but I am only raising a point of order regarding the procedure. I am quite conscious of the fact that, when he proposes to make the statement regarding promulgation of Tea Companies (Acquisition and Transfer of Sick Tea Units) Ordinance, 1985, the spirit of article 123 of the Constitution is being violated. I am deliberately using the term 'spirit of the Constitution', not only the provisions of the Constitution. As there is a fine distinction between 'privilege' and 'propriety', there is also a fine distinction between 'provisions of the Constitution' and 'the spirit of the Constitution'. Article 123 says :

"If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render

[Prof. Madhu Dandavate]

it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require."

"...An ordinance promulgated under this Article shall have the same force and effect as an Act of Parliament. But every such ordinance..."

All that is there. No doubt it is said 'except when both Houses of Parliament are in session.' That is there. So our hon. Minister can argue like a lawyer that out of the two Houses, one House is already adjourned. When we discuss the Demands in the lower House, it is always the convention that the other House adjourns and when the discussion on the Demands is over, then again the second Chamber actually holds the session. So, technically, one of the Houses is not in session and to that extent, he may say that issuing of an ordinance even when one House is in session and when the other is adjourned, is perfectly permissible. That is as far as the Constitution is concerned. But the spirit demands that when it is already in session, when the Lok Sabha is in session and only because it is discussing the Demands and only for that reason, the other House has adjourned, really speaking they ought to have brought the ordinance before the meeting of the Parliament session and they ought to have made the necessary provision by bringing forward a Bill and I am sure that if the matter is of such a vital importance that this House is not going to be deviated on the provisions of that Bill, without any difficulty and without disturbing the normal agenda in the Budget session, we would have fully backed up that Bill. Therefore, this extraordinary procedure of making a statement on the promulgation of an ordinance when the House is in session could have been avoided. Therefore, on grounds of propriety and on grounds of the spirit of the Constitution, I oppose this procedure that is being followed by the Minister.

Again, wherever the question of President's satisfaction is there—that clause is there—President's satisfaction is subject to the satisfaction of the Cabinet because, according to our Constitution, President functions with the aid and advice of the Cabinet. It is collective responsibility and even President's satisfaction, with all his likes and dislikes, is not a subjective satisfaction. It is a satisfaction that is also guided by the satisfaction of the Cabinet. Therefore, we cannot say that the President has gone through all these provisions and that he is satisfied that a situation exists when such an ordinance should be promulgated. I do not accept that. Therefore, on grounds of propriety and on grounds of the spirit of the Constitution I object to this type of procedure being followed by the Minister in coming forward with a statement before the House, when the House is in session, regarding promulgation of the ordinance. I hope you will give due weight to the point of order I have raised.

PROF. SAIFUDDIN SOZ (Bara-mulla): I heartily support Mr. Dandavate and I request the hon. Minister to go through the correspondence that took place between the then great Speaker, Mavalankar and the then Prime Minister, Pandit Jawaharlal Nehru. In the last sentence Speaker Mavalankar said—I cannot quote because I do not have it here—that ordinances cannot ordinarily be issued by the President when the Parliament session is quite at hand. Here Parliament session is in session and here is a Minister who makes this Parliament to approve that ordinance. This should not be done. This is an affront to the dignity of Parliament. President has powers but he is not above the Parliament. That is the question.

PROF. MADHU DANDAVATE: Just to substantiate what he has said, on one occasion, when Sardar Vallabhbhai Patel was the Home Minister, he used to say and he used to advise his colleagues, "When the session is already expected to take place within a few weeks, do not unnecessarily promulgate an ordinance. That old man is sitting there...". He was referring to Speaker Mavalankar.

"He would take very strong objection. On two occasions he has almost expressed strictures against us on bringing forward ordinances on flimsy grounds. Therefore, be careful before an ordinance is brought." That was Sardar Vallabh-bhai Patel. Those were the days of Patel and Nehru

MR. DEPUTY SPEAKER : Now Prof. Dandavate and others are there.

PROF. SAIFUDDIN SOZ : Then about the notice, it is a very bald and sketchy notice. There is no indication as to whether the Ordinance has already been promulgated or is yet to be promulgated in the late afternoon. We are guessing about it. You read this notice.

MR. DEPUTY SPEAKER : Regarding the point of order I have to say that there is no point of order. Prof. Dandavate has himself said that technically there is nothing wrong and only in spirit it is wrong. According to the provision both Houses should be in Session but Rajya Sabha is not in Session. The precedent is there.

(Interruptions)

PROF. MADHU DANDAVATE : Sir, this House is also guided by the traditions, conventions and propriety and not merely the provisions of the Constitution.

(Interruptions)

MR. DEPUTY SPEAKER : The President also acts to the satisfaction of the Cabinet and when the Cabinet feels about the Ordinance, therefore, ..

PROF. MADHU DANDAVATE : Sir, this Cabinet gets satisfied very easily.

MR. DEPUTY SPEAKER : .. when the Minister explains he will explain about the urgency. So, there is no point of order.

THE MINISTER OF FINANCE AND COMMERCE AND SUPPLY (SHRI VISHWANATH PRATAP SINGH) : Sir, the point has been made that it is an

affront on the Constitution. But, Sir, that which is provided in the Constitution cannot be an affront. The point has also been made that it is violation of the spirit of the Constitution. So far as the contents of the Ordinance are concerned perhaps there might be unanimity in the House. So, the spirit of the Constitution is not violated. Prof. Dandavate agrees with the contents of the Ordinance in spirit had his objection is also technical. He is not objecting to the Ordinance in spirit. So, I now proceed with the statement.

#### Statement

THE MINISTER OF FINANCE AND COMMERCE (SHRI VISHWANATH PRATAP SINGH) : As the House is well aware, the management of four sick tea units namely Pashok Looksan, Vah-Tukvar and Potong was taken over by Government under the provisions of the Tea Act after continued mismanagement and neglect coupled with reckless investments and encumbrances had led to a state of deterioration which threatened their very continuance and the employment of about 3000 workers.

Government has invested considerable effort and money to nurse the tea units back to health with a view not only to safeguarding the interests of the workmen therein but also for exploiting their full potential for augmenting the production and manufacture of different varieties of tea which are essential to the needs of the economy of the country. Further investment of large sums of money is necessary for re-organising and rehabilitating these gardens for attaining the objective fully. It is necessary for Government to have an effective control over the affairs of the gardens to enable further investments of such large sums of money and also to protect the large investments already made.

In the circumstances it has been decided to nationalise these tea units. In view of the urgency of the matter and as the Council of States is not in Session the president has been pleased

[Shri Vishwanath Pratap Singh]

to promulgate The Tea Companies (Acquisition and Transfer of Sick Tea Units) Ordinance 1985. I am placing on the Table of the House copies of the Hindi and English versions of the Ordinance.

(Interruptions)

SHRI VISHWANATH PRATAP SINGH : As for precedent, there has been a precedent ; The National Security Act, 1984, dated 5th April, 1984 was passed.

MR. DEPUTY SPEAKER : He has already mentioned.

PROF. MADHU DANDAVATE : That atrocious National Security Act was brought.....

SHRI VISHWANATH PRATAP SINGH : There was real emergency. What I wanted to inform Prof. Dandavate was this. Extension initially was for 5 years. Once we came to the conclusion that it was necessary and it was expiring on 10th April 1985, there was no point to keeping it pending and a decision was taken.

PROF. MADHU DANDAVATE : If one more precedent is required, even without a Cabinet meeting being held, when emergency was proclaimed, the President had signed the Ordinance proclaiming emergency. That also he could have quoted. But these are bad instances and these are bad traditions that they are following. Please take note of that.

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DEMANDS FOR GRANTS (General)  
1985-86—Ministry of Education—contd.

[English]

MR. DEPUTY SPEAKER : The House will now resume discussion on the Demands for Grants under the control of Ministry of Education.

Now, Prof. Saifuddin Soz.

PROF. SAIFUDDIN SOZ (Bara-mulla) : I was prepared for the catastrophe of expressing my ideas at the fog end of this session. What else could I do.

MR. DEPUTY SPEAKER : There are 4 or 5 persons who want to speak in the same group.

PROF. SAIFUDDIN SOZ : I get 4 minutes less than what you allowed to Prof. Nirmala Kumari.

MR. DEPUTY SPEAKER : They adjust according to time. They have been given 4 hours. In that they have adjusted. I want to finish this today itself.

PROF. SAIFUDDIN SOZ : Sir, I am not going to repeat what others said and therefore I will take only 10 to 15 minutes, not more than that. Last year it was our demand, perhaps, that the Ministry of Education should be under the charge of a Cabinet Minister. Since that demand has been conceded, to that extent, the Prime Minister, I must say, deserves our appreciation. But to those who say that everything is good about education, I would say this :

“Tan hama dag dag shud

Panbah kuja kuja nahan”

When the body has so many sores and wounds it is very difficult to apply balm ; and you are giving ‘Samarthan’ so lavishly !

Now that our demand has been conceded and there is a Cabinet Minister to supervise the affairs of education, Mr. Pant’s existence must make a qualitative difference in education. I must congratulate him one thing. From the very beginning he has been accepting it as a challenge and he has been talking of reforms. I am wanting to avoid what my colleagues have spoken already on both sides. I want to give a few suggestions provided the Minister comes forward with an open mind. I said this last year also. But perhaps nobody takes