

[Sh. Chitta Basu]

should be the objective.

So far as the restoration of democratic right is concerned, I would only refer to the remark made by Shri Venugopal, an important legal luminary. He is of the view that the RPF (Amendment) Act, 1985 in general and Section 12 thereof in particular, does not in any manner give any more legal powers and does not alter the primary function and the character of the RPF. He further goes on to say that Article 33 of the Constitution does not apply to the member of the RPF.

16-00 hrs

And section 15-A of the amended RPF Act, on the pretext of which RPF associations we have derecognised, is violative of article 19(1) (c) and is not saved by article 94 of the Constitution of the country.

I do not like to quote much because it is clear as day-light. The only thing is, when the wooden-headed bureaucracy would understand. They may have wooden heads, but people on the other side throughout the country have faith of their own, experience of their own perception of democracy, perception of the world affairs. In this connection the Congress Party is not only omitted but is violently committed. It is a parliament. You cannot expect me that I should go there and run after you and say, do this or do that. I do not see Mr. Kumaramangalam and other friends there. Shri Manoranjan Bhaktar and others are very great parliamentarians of experiences. Their name should be recorded in the history that they wanted that this recognition would be restored. Mr. Gyaneshwar Mishra, who was the Minister of Railways at that time, wrote a letter to Mr. Kumaramangalam saying:

"It has been decided to grant recognition to the association subject to the prescribed formalities."

I do not know what are the formalities and whether this direction of the former Railway Minister has been taken into consideration or has been acted upon by the subsequent Minis-

ters. With this, I support the Bill. I feel that if the Government does not change their attitude with regard to this, it will be a bad day for the country.

16.02 hrs.

STATEMENT BY MINISTER

U.S Action Designating India as a Priority foreign Country under its special 301 Legislation.

[English]

THE MINISTER OF COMMERCE (SHRIPRANAB MUKHERJEE): We note with regret the decision of the US Government to continue to designate India as a Priority Foreign Country under its Special 301 legislation for alleged deficiencies in our patent system. It has been our consistent stand that such issues are best resolved through the multilateral system and that unilateral action by any country must be avoided. Trade Related Intellectual Property Rights (TRIPS) is a subject of negotiations under the on-going Uruguay Round multilateral trade negotiations. With respect to patents, the availability of drugs at affordable prices is a matter of foremost concern to the Government. In our view a patent system must recognize both the rewarding of an invent and vital public interest needs. We will continue to impress upon the US Government that these issues must be resolved through the multilateral system and any unilateral action on their part is unwarranted.

16.04 hrs.

[English]

RAILWAY PROTECTION FORCE (AMENDMENT) BILL

SHRI OSCAR FERNANDES (UDUPI): Madam, this debate has evoked a lot of concern for the Railway Protection Force employees of the Railways. My only appeal to the Railway Minister is to find a solution to the problem.

Definitely, there are very good arguments on both the sides. The welfare of the RPF employees has to be looked into. They need a forum where they can ventilate their grievances. We are told that there are certain genuine difficulties faced by the administration in giving recognition to the RPF. But that apart, to keep the morale of the force, we feel that if some kind of a recognition is granted, they will definitely be loyal to the organization for which they are working and would be in a position to give better productivity like safeguarding the property of the Railways. I do not want to add anything more than only appealing to the Railway Minister to kindly find a solution to the problem. This is all that I have to say.

[*Translation*]

SHRI SURYA NARAVAN YADAV (Sahasra): Madam Chairperson, I rise to support the Railway Protection Force (Amendment) Bill brought by Shri Basudeb Acharya.

In the matter of deployment of the police in railways in our country, police personnel are taken but in fact, they do not enjoy any power. Whatever power they enjoy, they misuse it. We understand it. Railway police harass the laborers who come back from Delhi to their native villages by train taking some articles with them which they purchase with their hard-earned money. This proves that they are being deprived of their due rights and as such they indulge in such acts. Earlier the law was in force and there was no need to repeal this law. The then Railway Minister George Fernandes and his successor Janeshwar Mishra had announced in the House that they were taking action to recognise it. I would like to request the hon. Minister sitting here to accept this Bill for efficient functioning of the Railway Protection Force so that it can discharge its duty effectively. Today R.P.F. has a large range, for example, in the zone from Samastipur to Katihar, there is only one S.P. or inspector and the whole area is being controlled by one I.G. With the result, the journey is not performed as safe as it ought to be. If this right

is given to this force, even a small contingent of the force will be more useful. I request Jaffer Sahen to accept it.

There is not much need to say that Police force is neglected and in order to make the Force more useful Shri Basudeb Acharya has brought this Bill. I submit to the government to accept it. With these words, I take my seat.

[*English*]

*SHRI GOVIND CHANDRA MUNDA (Konjhar): Mr. Chairman, Sir, I rise to speak a few words on the Railway Protection Force Amendment Bill moved in the House by Shri Basudev Acharya. I appreciate the noble intention of the mover of the Bill Shri Acharya. He feels that there is need of the Railway Protection Force in the country. They can play vital role in protecting the Railways as well as rail users. So, I support the Bill whole-heartedly.

Sir, Railways are the life-line of the nation. Railways play important role in the building of the nation. Therefore, there is a need to set up Railway Protection force. The Govt of India is the owner of the Railways. We are only the Railway passengers. Railway Ministry is all in all so far as the running of the trains are concerned. But, the Ministry of Railways should be equally responsible for the safety and Security of the passengers. The responsible for the safety and security of the passengers. The responsibility of the Govt. will not simply over by creating the Railway protection Force. They should also see that the Railways Protection Force is really able to give due protection to the passengers. There is a reason behind advancing such argument. We are the different class of passengers travel by train. I have been using rail since last several years. I was also using rail before I was a Member of parliament. I shall be failing in my duty if I do not mention what I have experienced in my life. I am sorry to say that the Railway police is not able to provide safety to the passen-

[Sh. Govind Chandra Munda]

gers. They are not able to check the theft in the trains. Stealing of the belonging passengers and pilferage of the properties belonging to Railways, have become the order of the day.

Secondly, sir, when the passengers' belongings are stolen, they want to lodge complaint. But, they become helpless. No Railway Policemen on duty write their complaint. I have seen in the Railway police stations that the Officer on duty sometimes do not register the complaints. If at all the FIR is registered, there is no guarantee that the belongings are returned to the passengers. In majority of the cases, the Railway policed fail to get the missing property. This is not a new thing. I have also raised this issue particularly the irresponsibility of the Railway Police and the problems of the rail passengers due to inadequate safety measures and protection being given to them.

Sir, next point is regarding the catering service. The existing catering services in the trains are very much unsatisfactory. There is a need to improve the catering service. The standard of meals served in Second Class should be improved. In First Class and A.C. also the meals are not of good quality. The food should be charged a along with the fare. The passengers should not pay anything in the Trains. Food should be served in the train like it is served in the Plane. Similarly, Sir, drinking water should be ensured in each and every Coach. It is regrettable that it is not available in some stations. Then the department of Public Health also comes in the picture. The doctors should check the food before it is served to the passengers. It should be seen whether the drinking water is potable or not. The bathrooms should be kept clean. All these items of works should be properly supervised and passengers safety as well as comfort should be seen on priority. The countries are considered that much of civilized as much the train services are improved there. We are fortunate to have now two efficient Ministers in the Ministry of Rail-

ways, one is Shri Jeff Sheriff, the Honble Minister of Railways, and the other is Shri K.C. Lenka, hon. Minister of state. He is from my native state. They are very intelligents and I am sure they will adopt this Bill.

Lastly, Sir, the long pending demand of my constituency Daitari-Banspani line has been sanctioned. I hope the Hon. Ministers of Railways will give due protection to the people of my constituency by providing adequate fund and expediting the construction work. It is unfortunate that the violent incidents are taking place in different parts of the country. Such incidents were earlier taking place in Punjab, Bombay, Delhi, Calcutta and several parts of the country. Orissa has been always a peaceful state. Unfortunately, such ugly incidents took place in that state. I hope the Honble Ministers understand this and will see that no injustice is done to the Railway passengers and the states which are backward in Railways. Otherwise, the 'Mahabharat' that started in Orissa will start in other states too. The prophecy that the Movement will start from North will be taken violent turn in the south would be true if they do not remove regional imbalance. The Minister should see that the Railway accidents are stopped.

With these words I thank you for allowing me to speak and conclude my speech.

16.15 hrs.

(SHRI TARA SINGH *in the chair*)

[*Translation*]

SHRI VISHWANATH SHASTRI (GAZIPUR): Mr. Chairman, Sir, I support the R.P.F. (Amendment) Bill brought by Shri Basudeb Acharia. The Department of Railway has deployed two forces to check theft and other crimes in railways - one is G.R.P. and other is R.P.F. The main function of the R.P.F. is to protect railway properties. The right the Force enjoyed earlier was denied to it later on. All the Commissions constituted in the meantime had

[Sh. Vishwanath Shastri]

recommended to restore the right to R.P.F. In the meantime R.P.F. was entrusted with the responsibility of protecting railway property and G.R.P. was given responsibility to maintain law and order situation, which comes under the states administration. When police officials receive complaints against some police personnel, they transfer such personnel to G.R.P.

Sir, they have their own way of working. Without coordination between these two forces, the aim of deploying these forces cannot be achieved. So, I think the R.P.F. should be given back the rights it was enjoying earlier because it can tackle the cases of theft and other crimes in railway more efficiently than the G.R.P. because the training of G.R.P. personnel focus on maintaining law and order situation which cannot protect the railway property. So, I would like to emphasize that the rights enjoyed by R.P.F. earlier be restored to it. *(Interruptions)*

Sir, my another point is that when R.P.F. does not come in the category of other paramilitary forces like G.R.P. and others in respect of powers they enjoy, then should it not be given the right to form association. It should not be deprived of rights enjoyed by it earlier. I am very much surprised at the attitude of my friends who are now in ruling party, they were staging dhama, and sitting on hunger-strike and making various demands to stop the proceedings of the House on this issue when the Janata Dal was in power. Due to their agitation and such demonstrations. *(Interruptions)*

SHRI SURYA NARAYAN YADAV:
Kumaramangala....*(Interruptions)*

SHRI VISHWANATH SHASTRI: Yes, Mr. Kumaramangala was the leader and Mr. Rawat was sitting on hunger strike. *(Interruptions)*

After that the then Railway Minister in the Janta Dal regime admitted this fact and assumed that the RPF would be given the right to form an association. Then the Janata Dal re-

gime admitted this fact and assured that the RPF would be given the right to form an association. Then the Janta Dal Government was defeated and had to resign. Though, the name of our present Minister of Railways is 'Sheriff', but I am failed to understand that why he is not taking steps as per his name. I hope that Sheriff Sahab would fulfill the promise made by the previous Government abiding by the traditions and conventions of the democratic system.

Mr. Chairman, Sir, I demand that the RPF should be given the right to form their union and their association should be allowed to resume its work. With these demands I support this Bill and conclude.

SHRI VIJAY N. PATIL (ERANDOL): Mr. Chairman, Sir, the bill presented by Shri Basudev Acharya has sought to give the right to form a union to the RPF. I think that when the Government is competent enough to protect the rights of RPF and to work for its welfare then what is the need of forming a union. The RPF has been given all the rights and facilities which are provided to the Defense Forces. Where is the need to form a union when all the rights and welfare measures are provided to them. It also has its ill-effects. The greatest sufferer is West Bengal, because due to these union all the industries have shifted out of West Bengal. It has been submitted that Shri Kumaramangala and many other M. Ps had made a demand for the right to form union to the RPF and while in office Shri George Fernandes had also given assurance in this regard although it did not come on the paper. I think the situation has taken many turns since then.

Mr. Chairman, Sir, we see that these right is misused many times in a democratic set up. The example of the strike of the Pilots of Indian Air-lines is before us. Common man suffered, the Government suffered and I do not think pilots also gained anything from this. We should learn some lesson from what happened a few days back in Orissa. The elected representatives of the Union manhandled the Chief Minister and

[Sh. Vijay N. Patil]

[Translation]

Chief Secretary. What type of discipline and welfare is this? What discipline or welfare is involved in it?

We should pay attention to this. We see that RPF does not have administrative or legal powers and secondly railway force is also not so effective. A large number of incidents of chain-pulling occur everyday and only a few people are behind it and most of the cases are hushed up. I do not think that any purpose will be served by giving legal power to RPF in the case of theft RPF has been constituted with a view that it has to move to other states so the rights given to it are sufficient. Shri Basudeb Acharia, the mover of this motion has asked for making more provision for welfare. Government should pay attention towards it. If the Government gives assurance, that nothing about of a union. If he gets assurance in some other form, he should withdraw the Bill Shri Rajiv Gandhi and congress MPs must have the thought to do some thing for the welfare of R.PF and this government is committed to implement that. We would also use the Government fulfill the assurance ; I would therefor request the hon members must insist that the bill be put vote and withdraw this Bill. With these words, I conclude.

SHRI RAM VILAS PASWAN (ROSERA): Mr. Chairman, Sir, I rise to support the Bill presented by Shri Basudeb Acharia and if I do not support, it would amount to indecency with my colleague.(Interruptions)

[English]

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman, I am on a point of order. It is not really on what he says. This Bill was moved by me also. But I find that in the latest copies circulated my name is missing. I would like to know how this has happened.

MR. CHAIRMAN: I will look into it. Okay. Please continue. Shri Paswan.

SHRI RAM VILAS PASWAN: I would like to draw your attention towards two or three points one, from constitution point of view recognition should be given to association. Secondly it is said that this association is a paramilitary force. I think that RPF does not fall under the category of para military forces. If it falls in that category then it is for the hon. Minster to explain it. There is a policemen association and IPS officers association and both are recognized then on what basis it is said that RPF union should not be recognised. Before 1985 it has been recongnised, but later on recognition was withdrawn. When the association was recongnised in 1985 then it some doubts were raised. There were the same brutes which were earlier expressed about police force unions. I do not think anybody has right to with hold the recognition merely on the basis of apprehension or doubt. Right from the initiation of debate I have heard both sides and all have supported this. This question has been raised time and again. Shri Kumaramangalam and other Ministers have also raised it. Former Minister of Railway had also recommended it. Although it is not my subject yet, I would like to say that it would not put any financial burden on the Government. Either from constituent angle or from political angle I do not think this matter is such that it should be delayed. Presser has been put in Parliament for the last one and a half year yet the Ministry of Railways or hon. Minister has not said that they are against it. Only it has been stated that there were a few problems and the Government was working to solve them. If it is the intention of the Government then it should solve the mater as soon as possible and give recognition to it and respect the sentiments of the hon. Members. With these words, I support the Bill.

SHRI GHULAM MOHAMMAD KHAN (MORADABAD): I thank you for providing me an opportunity to speak. I would like to submit two or three points. Previously RPF union was recognized, now the recognition has been with-

drawn. RPF is responsible for safety of railway. Therefore, I request that recognition should be given to it. With these works I conclude.

SHRIS. M. LALJAN BASHA (GUNTUR): I support the Bill, brought forward by Acharyaji. R.P.F. is responsible for the protection of Railway property. This is a very big organization of the Railways as well as the country. There demand are just and the Government should meet these demands without any delay after due consideration. The incidents of thefts in Railways and payments of the claims of crore of rupees per annum by railway can be avoided if more powers are given to the R.P.F. For the security of Railway property, they should be given adequate powers. The strength of Railways depends on the strength of the R.P.F., therefore, we must fulfill the demands of its personnel.

[English]

SHRI PETER G. MARBONIANG (SHILLONG): Sir, I must congratulate Shri pawan Kumar Bansal and Shri Basudeb Acharia who have jointly brought this private Member Bill to amend the Railway Protection Force Act of 1957. The two hon. Members have really tried to focus attention in many ways on the need of bringing an official amendment to go into different aspects of the Railway Protection Force. But, I find that in the Bill which the hon. Members have brought, there are a large number of lacunae and I feel that it will be very difficult for me to support this Bill. But, I would request the hon. Minister, who is here with us, to note that there is a need from the different reports of the Committees for a more elaborate Bill to be brought to guide the Railway Protection Force.

Before going into the details of the Bill, I would like to let the hon. Minister know that the Railway Protection Force, the personnel who are in the trains more often than seldom. We find that on some long distance trains that go to the north-East Guwahati, these personnel get down at Patna and leave the face of the passengers to

the whims of the robbers and other bad elements in the train. Very often we have received complaints.

I remember of a very definite complaint last year in the month of October, an incident took place where a group of passengers coming from my area, from shilling was robbed in between Siliguri and Patna. Now, the people who have come by different trains from Guwahati-Delhi link, have complained that after Patna, the personnel of the Railway Protection Force are no longer in the trains to give protection to the passengers of Assam, Bengal Siliguri, Malda etc. Therefore, I would request the hon. Minister to look into this aspect of the Force that they should accompany the trains. We know that in Assam like in the Bodo land area, many attempts were made, or in the siliguri area, where there were bomb blasts and the passengers were let to their own fate. It is very unfortunate.

Therefore, I would request the hon. Minister that this aspect be taken care of that the Force which accompany the train should continue their journey upto Guwahati where the whole broad gauge line stops and the passengers get down so that we would not get complaints again in future.

From the Bill, we find that in Section 3 of the Principle Act, the Railway Protection Act, 1957, the words, "an Armed Force of the Union were there.

The Armed Force of the Union cannot form any union. So, I think the Government must go deep into the matter before giving permission to form a union for the Railway Protection Force. I can see from the Bill that the hon. Member wants to stress on the point that the Railway Protection Force should remain as a force and not an Armed Force of the Union. Should they be allowed to form a union to protect their rights and interests? In the police, we have a union of the police people, but in this particular force, according to the original Act of the Government of India, it is an armed force of India equivalent to

[Sh. Peter G. Marboniang]

the Army, the Navy and the Air Force and also equivalent to the para-military forces. As far as this part of the question is concerned, I would request the hon. Minister that he should go deep into the matter and see in what way an amendment can be brought forward, because it is redundant also to imagine of a force that has no power according to the Bill which the hon. Member has brought.

Now, the hon. Member want to give more power to the force. However, I have seen that in the original Act of the Government of India, there are a number of sections has been given to the RPF of the Government of India, there are a number of sections under section 12 where power to arrest without warrant has been given to the RPF of the Government of India and the power to search without warrant also is there. The Officers of the force will always be on duty and are liable to be employed in any part of Railways. Now, all these things have been included because, here is an armed force of the Union which is needed everywhere in India. Though I feel that there is a need for a more comprehensive Bill to be brought about, at least I would requite the hon. Member not to press for the passing of this Bill and accept of the hon. Minister. So, personally I cannot support this Bill.

Sir, when Shri Chitta Basu spoke on this Bill, he mentioned both about the Government Railway police and the Railway Protection Force. Sometimes it is very confusing and many hon. Members may not be knowing what is the role to make it very clear that the Government Railway Police is not at all under the control of the Centre or the Railway Minister. It is entirely Under the control of the state Government and the Railway Ministry Shares 50 per cent of its cost. Even though the Railway Ministry has not say in the matter. So, all the problems of the general law and order situation refits on the Railways and the questions are directed to us in this House. for which we are not responsible.

Since Railways is a Central subject and there is a Railway Ministry, we will have to answer the questions for which we are not concerned at all. This is also one of the reasons for bringing an amendment and making it as an armed force in 1985.

Mr. Chairman, Sir, while we have sympathy for everyone, I consider the Railway Protection Force is in no way different from all the railway men who are serving in the Railway Ministry.

[*Translation*]

SHRI RAM VILAS PASWAN: I am still unable to understand that why G.R.P. has been brought under Railways. When state Governments are solely responsible for G.R. P. then why it has been brought under Railways.

SHRI C.K. JAFFERE SHARIEF: It has not been brought under Railways, it is still under state Governments.

SHRI RAM VILAS PASWAN: That is right, but when State Governments are bearing 50 per cent of the expenses and the rest 50 per cent is shared by the Railways, then what was the idea behind bringing it under Railways.

SHRI C.K. JAFFEWR SHARIEF: It's an old parch, it is such a big nation it has such a vast network.

[*English*]

Law and Order its state subject and when something untoward happens a case is registered and it is pursued. This is what the local civil police does.

[*English*]

That is how this subject was entrusted to the state and the state created a force called the Government Railway police. The RPF comes directly under the Ministry of Railways.

[Sh. C.K. Jaffer Sharief]

As I was telling, we should look into the relays. As I said before I am in no way second to none in my sympathy, in my support, in my appreciation, in my understanding the problems of the disciplined force. Today in the country as we have been witnessing and debating in this very House for the last couple of years, there is change in the environment. The security environment has changed. Our friends who are sitting that side sometimes may also do the same as whenever we had sat on that side also, we did it and that is how Mr. Kumaramanlam and others come into the debate. Suppose there is a problem suddenly anywhere in between the railway station, sometimes near states, it is difficult even to expect a large number of force because the force are deployed somewhere else. Suppose somewhere a train is blocked, its movement is stopped, some agitation comes in, some robbery takes place, some dacoit takes place on whom we should bank upon? This is also another reason for the amendment of the RPF Act in 1985 raising the status of the RPF to that of Armed Force. This force is being used in Punjab. Even today the RPF battalions are working in Punjab, in Assam, in Kashmir. Recently on the Ayodhya issue, they were stationed all over the country.

SHRI CHITTA BASU: Are they recognised as the central armed force?

SHRI C.K. JAFFER SHARIEF: They are equal to that. That is what they have done now. That is where if we have to do anything with this force, it is likely to have its ramifications on the other disciplined forces. It is here we have to be very careful about it. There are now two opinions in looking into their problems and grievances. I can categorically assure the House about that.

In fact, there was a feeling that more IPS people were drawn than the RPF force. I must share this information with the House. You may talk of Mr. George Fernandes or Mr. Janeshwar Mishra but they did not do it. When I am this, I am

going on record. In fact, I went all about to see that the IPS cadre does not grab the opportunity of RPF. Today out of seven posts, only four are with the IPS and the three are with the RPF which was not there before. You can check the record. The person who used to look after their welfare, particularly administrative part of it always used to be IPS man. The moment the vacancy occurred, I felt let the RPF be manned alone by an RPF officer so that he would be able to understand the problems and take care of their interests. This is what I have done. I have resisted all pressures from the IPS lobby and I have supported the RPF. There is no strength in any argument of our friends. It is wrong to presume that the Government is not considerate or sympathetic to the Railway Protection Force. I told the Railway Board "You have created two separate organisations for your Service. One is Health and the other is Railway Protection Force. They are not having the capacity of Members of the Board or anything because in the railway system, the Members of the Board are all-powerful. I told them since they do not sit in judgment "Unless you give proper treatment and proper care to their problems, I will not accept any of your recommendations or decisions. Anything relating to those areas, the Chief of that Organization is the final authority." This is what I have done. This is how I am overseeing things. I must keep you informed that while the Members have spoken at length on various aspects, I will go into all those aspects. In fact, Shri Chittau referred to some Committee's report and recommendation.

SHRI CHITTA BASU (Barasat): That is a report of the Lok Sabha Committee.

SHRI C.K. JAFFER SHARIEF: We will go into that also. What I say is that constructive and valuable suggestions have been made here and they are in the larger interest of the country.

We will take into account all that deserves consideration. We will have to go into details of all the questions like what sort of Association is it which they desire to have, what mental reser-

[Sh. C.K. Jaffer Sharief]

variations are there on it, whether it should be there or not, what modalities are to be followed and what should be its impact on the other organisations. We will have to work out the modalities and find out solutions how best it can be done and whether it is in the interest of the country or not.

I will have to discuss these questions with the Home Minister, with the Ministry of Home Affairs and with the officials of the Home Ministry/May be, it is very necessary to do that.

I am very happy that this debate has thrown lot of light even on the GRP. I have keenly thanked of having a dialogue with the Chief Ministers because unless they fully cooperate and take interest in the general law and order situation and make the GRP a good organisation, it will not serve the purpose for which it is set up.

All these aspects will have to be taken into consideration. We have to see the modalities to be worked out, and how best we can find solutions. That needs time.

I assure the House that once the House is adjourned, I will sit with the Home Minister and, if necessary, I will take the Chief Ministers in confidence. We will work out some modalities and see how we can redress their grievances and make this an effective instrument either by giving some recognition to an Association or by not giving recognition to it. We will coolly think about this.

Shri Basudeb Acharia and Shri Pawan Kumar Bansal are here although our other friend, who is my colleague, is not here today.

17.00 hrs

Anyway, What I am requesting Shri Basudeb Acharia is to withdraw the Bill. I think, some time, at some stage. I may even ask some of these friends who have taken great interest in

this also to join us in a discussion with the Home Minister and among ourselves. We will sit together and see what best we can do. (*interruptions*)

I must make use of this opportunity in pointing out one thing because while replying to the committee Budget, I forgot it. The one problem that I am facing from Shri Basudeb Acharia is the more I become considerate the more he becomes stubborn in the House. Perhaps, he might have got more from me rather than from the other Ministries. I do not know about it, in fact. (*interruptions*) It is the Railway Ministry-I am sure Members will agree and especially he will agree- which is open to you; the entire functioning of the Ministry is open. The Railway Ministry has given it in three groups the Consultative Committee of Ministry of Railways of which one of the groups is looking into the working of the Railways. He is himself the convenor. All the three Convenors are from the Opposition parties. With such an open Ministry which has given due regard to you, in all fairness I expect that even if my Members shout, they should be able to support me. I therefore request Shri Basudeb Acharia now to withdraw it and leave it at that.

SHRI BASUDEB ACHARIA (Bankura): Mr. Chairman, Sir, I am grateful to all the Members who have participated in this debate. As many as 36 Members have spoken and extended their full support to the cause of the Railway Protection Force. I also expected that the Minister of Railways would deal with all those points which are very valid points, constitutional points. But he has not touched those points except one or more giving more powers to the Railway Protection Force.

When the parent Act was amended in 1985, we all in the Opposition vehemently opposed that at that time. Even when the Bill was introduced, we opposed it. What was the purpose of bringing forward that amendment to incorporate in the Preamble of the Act an Armed Force of the

Union without having any power when this force would remain with the Ministry of Railways? Though it was treated as an Armed Force of the Union, for all purposes its employees are Railway Employees. Though the Act was amended, yet it continued to remain under the Ministry of Railways, not under the Ministry of Home Affairs. How can we equate the Railway Protection Force with CISF? How can we equate the Railway Protection Force, what was the reason that the Railway Minister himself did not honor the unanimous opinion of this august House? This was the only one issue on which the entire House was unanimous. Even Shri Patel also has not totally opposed giving recognition. But his intention was that right to form an association of disciplined force. Why that if fear there? I don't understand it. Why is there a fear that if the right to form an association is given, there will be in discipline? State police has this right. The West Bengal police has this right. Before, this, in 1976, there was much in discipline in the year 1967 there was a police raj. The United Front Government was there in West Bengal and Shri Jyoti Basu was the Chief Minister. He was gheraoed by the police when the police had no right to form association or had no association. But when this right was given, there has not been a single case of in-discipline in the police force. Similar is the case with the RPF. Can the Railway Minister cite an example of indiscipline of this force when they enjoyed this right since 1973? He cannot cite a single case. Even the Director-General of RPF in the Rail Suraksha journal praised this Force remained as a disciplined force although they had the right to form an association. But the Railway Minister has said that it is for the purpose of giving more powers. But after amending the Railway Protection Force Act, we cannot understand what more powers the Railway Protection Force has except that this force is being utilised for maintenance of law and order? This force is mainly for the protection of the railway property and not for the maintenance of law and order. This complaint was made by the General Manager of the Zonal Railways. We want to know why there are so many thefts, pilferage's and all these things. The complaint is that the

Railway Protection Force is utilised for other purposes than the protection of the railway property. Has the Railway Protection Force been utilised for maintenance of law and order? Has the Railway Protection Force been sent to the States where is deterioration of law and order? Is it correct that the Railway Protection Force is being utilised for holding elections also?

So, we cannot equate them with other paramilitary forces. There is a fear that there will be a chain reaction. But now? This force had recognition, they had their association and there were some 16 or 17 guidelines. They had to follow all these guidelines. They had to follow all these guidelines. If they do not follow, then recognition will be withdrawn. But these paramilitary forces- CRPF, CISF, BSF- they never enjoyed, as per the Act, the formation of any association. So, we cannot equate Railway Protection Force (RPF) with other parliamentary forces.

Another vital point which the Railway Minister has not touched is, whether the amended Act of 1985 is violative of the Constitution. It is violative of the Constitution. Almost all the Members have spoken saying that the Railway Protection Act, 1985, is violative of the Constitution. Why? It is because, Section 15 (a) was inserted and this Section 15 (a) is violative of the fundamental rights mentioned under Article 19 of the Constitution. When he discusses with us he will have to keep this in mind that this present Act is violative of the Constitution and, therefore, this should be done away with. It means Section 15 (a) should be deleted. Unless it is deleted- Section 15(a) which violates the Constitution- this cannot be undone. This is very important.

There are a number of cases in 1952 and again in 1961. Once, the State Government of Bihar, they changed the service rules of the Government employees. This was struck down by the Supreme Court. And the Supreme Court has given its opinion on this because the Government of Bihar by changing the service rules wanted to take away the right, not only to form

[Sh. Basudeb Acharia]

associations but even the right to demonstrate. But the Supreme Court has stated in the particular case and I quote:

"In our opinion, this argument, even if otherwise possible, has to be replied in view of the terms of Article 33. That Article selects two of these services under the State-Members of the Armed Forces and forces charged with the maintenance of public order. The Article having thus selected the services of Members of which might be deprived of the benefit of fundamental rights guaranteed to other persons and citizens and also having prescribed the limits within which such restriction or abrogation might take place, we consider that other classes of servants of Government in common with other persons and other citizens of the country cannot be excluded from the protection of rights guaranteed by Part III by reason merely of their being Government servants and the nature and incidence of duties which they have to discharge in that capacity might necessarily involve restriction of certain freedom as we have pointed out in relation to Article 19 (a) (e) and (g)."

The functioning of the Railway Protection Force was included in article 33 of the Constitution. Article 33 of the Constitution says:

"Parliament may by law determine to what extent any of the rights conferred by this part shall in their application to

(a) Members of the Armed Forces

(b) Members of the forces charged with the maintenance of public order,....?

So members of forces charged with the

maintenance of public order do not include RPF

SHRI C. K. JAFFER SHARIEF : While amending article 33 of the Constitution in 1994, the RPF was excluded from the purview of this amendment. Section 15 A of the RPF Act in violation of article 19(1)(c). For that the reply is given as:

"It has been stated by various Members of Parliament that in August 1994 at the initial stage of the Constitution Amendment Bill referred to above, there was a clause that was deleted which read as under:..."

'Members of the forces charged with protection of property belonging to or in the charge of possession of this...'

It is true that the above clause was deleted as it was intended that RPF had the option like CISF to come up with a Bill to convert itself into an Armed Force or the Union which would automatically make article 33 applicable to RPF. The Government's view at that time was to prepare an amendment Bill to amend the RPF Amendment Bill was introduced and passed by Lok Sabha in 1985. Now the RPF position is, by making RPF Act 1985, it was made to provide certain safeguards to the Members of the force which inter—alia are as under

'To make proper utilisation of the available option of making RPF an armed force for the Union like CISF and other paramilitary organisations, which upon to perform law and order duties in Punjab and Assam along with other paramilitary forces and the RPF was feeling handicapped for not being an armed force in face of explosive situations prevailing in these States. It was to provide an authority to the gazetted officers of the RPF to deal with on the spot the unlawful assemblies in case of non—availability of the local police, magistrate and in situations causing imminent danger to the life of the persons in train movement; by declaring RPF an Armed Force of the Union it was automatically protected against Vexatious prosecu-

tion for acts done in discharge of legal duties. It was essential to put down the growing in discipline at that time in the RPF it was perpetrated by the erstwhile Articles of Association."

Why I say all this is because you have raised some constitutional issues. As I said before, before the Government could make up its mind to take a decision in consultant with the Home Ministry and others as to what sort of recognition to be given or not to be given and all that, we will certainly take into consideration the constitutional provisions, the administrative provisions, etc.

SHRI BASUDEB ACHARIA: Do not say "not to be given". Some sort of recognition has to be given. You delete "not to be given."

SHRI C. K. JAFFER SHARIEF: That is what you want to say.

SHRI BASUDEB ACHARIA: What form of recognition to be given only has to be discussed.

SHRI C. K. JAFFER SHARIEF: Let us look into these aspects. You must leave the decision to the Government.

SHRI BASUDEB ACHARIA: The Government will have to take a decision. So, whenever the Government takes a decision, definitely the Government will should consider all the aspects. So, please do not say, "not to be given" and say, what sort of association, in what form it has to be given, etc. That will be discussed and Considered by the Government. (*interruptions*) Staff Council is already there. You need not show that charity, because Staff Council is there already. In what way that could be improved and what should be the modalities, that can be discussed. We can arrive at a consensus. When there is a consensus in the House, when it is the unanimous demand of the entire House, we will be able to arrive at a consensus, I am sure. Then, all these vital points should be taken into consideration. What has he said? When the Parent Act was amended and in the preamble, "the armed

forces of the Union was incorporated", automatically this attracts Article 33 of the Constitutions. This is not the fact because in 1984, there was an attempt to amend Article 33 when the present Prime Minister was the Home Minister and to include this Force in Article 33 in this form;

"Members of the Force charged with protection of property belonging to or in charge of or permission of the Charge or position of the State...."

But, Article 33 was not amended in 1984. The main purpose was not to conclude Railway Protection Force within the jurisdiction of Article 33. Railway Protection Force is not governed by Article 33; but it is governed by the service rules of other railway employees. It is governed by Article 311. Can the Railway Minister deny this that they are not governed by Article 311? They are governed by Article 311; they are governed by the service rules of other railway employees; Railway protection Force is just the other category of railway employees.

This question was raised by Shri Somnath Chatterjee after converting them as armed forces, what was the benefit that the Indian Railways have derived?; what was the improvement in their quality of service or in their service matter? There has not been any improvement; it remained as it was prior to 1985; there has not been any change; there has not been any improvement in their service; more power has not been given. They cannot prosecute; in order to prosecute, they have to send it to GRP, the Government Railway Police, Why is there the fear in their minds, that if the right to form association is given, there will be in discipline? Will there be a chain of reaction? They are not demanding any monetary benefit, except the fundamental right.

I again request the Railway Minister to tell the House about the right of association. We can decide what form of as so citation can be given. Not that, but whether to give or not to give is the question. That will be discussed because this will be treated as an insult to the House. He must

[Sh. Basudeb Acharia]

tell the House frankly what is the fear. A time of two weeks was given. this discussion; was adjourned in order to enable them to have a discussion with Ministry of Home affairs. We got the discussion adjourned again a little earlier than last Friday. Again we got it adjourned because they wanted more time for discussion. For the last two or three months. this discussion is continuing. Why was time not found to discuss this matter to arrive at a concrete decision about the form of association? So, I would request the hon. Minister to tell us that in order to grant recognition, they need more time and they want to discuss with the Ministry of Home Affairs and with the Members who are interested in this matter. You tell us and then I would consider.

SHRI C. K. JAFFER SHARIEF : Sir, I have already said before. My friend, Mr. Basudeb Acharia is very generous and a person of understanding. I do not think there is any difficulty in understanding an appreciation. He is always very kind and generous. I may not say about the House but between him and me, we always have a consensus either to agree or to disagree.

SHRI BASUDEB ACHARIA : That is way I am requesting you know, perhaps I would have been present when the Bill was discussed in the last one or two sessions. At that time itself, possibly we could have moved in the mater. But there has been some delay because the Home Minister was also busy in the other House for various other business of his own. This is also a budget session where everyone of us is busy in the matters relating to Government's other business. So, naturally one cannot find time to do everything in this particular period. That is how I said., I have assured the House. I have assured my own Members who are greatly interested in this that we will be discussing with everyone, finally, the Ministry of Home and the /Railway Ministry and sometimes, if necessary because we are clubbing the GRP problems, we

will discus with the Chief Ministers also.

SHRI BASUDEB ACHARIA : Discussion with the State Government is not unnecessary.

SHRI C. K. JAFFER SHARIEF : Not for this. As a force, we have to take into all aspects because sometimes it is not merely a force. It is a question of deployment of force — using the force. So, it is a question of where adequate force could be used and in what manner. One has to study the problems for which time is needed. Modalities also have to bee worked out. Therefore, I have already assured. I do not think that you should have any more doubts on this.

SHRI BASUDEB ACHARIA : All right. Now it is clear that to give the right to form an association, the modalities have to be discussed. For that, the Railway Minister needs more time He has shown this gesture. We sincerely hope this is the expectation of the entire House.

THE MINISTER OF STATE OF THE MINISTRY OF FOOD (SHRI KALP NATH RAI) : No.

SHRI BASUDEB ACHARIA : Do not say 'no' Mr., Kalp Nath Rai. (*interruptions*)

So, this is the sincere expectation of the entire House. Sir, when he has shown this gesture, we expect that within a very short time, the genuine demand of the Railway Protection Force would be conceded and some form of Association would be given. With this expectation, I beg to move for leave to withdraw the Railway Protection Force Act, 1957.

MR. CHAIRMAN : The question is: "That leave be granted to withdraw the Bill further to amend the Railway Protection Force Act, 1957."

The motion was adopted.

SHRI BASUDEB ACHARIA : I withdraw the Bill