

MR. SPEAKER: Mr. Nitish Kumar, you should understand the nicety of the procedure also. It helps you also.

**(ii) Reservation in Promotions for Scheduled Castes and Scheduled Tribes in the wake of the Judgement of the Supreme Court**

THE MINISTER OF WELFARE (SHRI SITARAM KESRI): A 9 Judge Bench was constituted by the Supreme Court on 31.10.1991, to hear the writ petitions challenging the office memoranda dated 13.8.90 and 25.9.91 issued by the Ministry of Personnel, Public, Grievances & Pension (Deptt. of Personnel & Training), providing for reservation in civil posts and services under the Government of India in favour of Socially and Educationally Backward Classes and Other and Economically Backward Sections of the people who are not covered by any of the existing schemes of reservations.

The Bench delivered 6 separate judgments (with 4 judges subscribing to the same Judgement) on 16.11.1992. The Judgement of Justice Jeevan Reddy, delivered, on his own behalf, Chief Justice, Venkatchelliah and Ahmadi JJ, together with the support that it enjoyed from other judges, became the majority Judgement.

Apprehensions have been expressed by the hon. Members in this House that the observation in the majority Judgement that reservation of appointments or posts under Article 16(4) cannot extend to providing reservation in the matter of promotion, would adversely affect the interest of scheduled castes/scheduled tribes. It has been suggested that government should take measures for over-coming the legal hurdles,

The Supreme Court has, in its majority Judgement, directed that its decision in regard to non-applicability of reservation in the matter of promotions, shall apply only prospectively and that it shall not affect promotions already made, whether on temporary or officiating or regular/permanent basis. It has been further directed that wherever reservations are already provided in the matter of promotions, be it Central services under any corporation, authority or body falling under the definition of State in Article 12-such reservations may continue in operation for a period of 5 years from the date of Judgement. Within this period, it has been clarified, it would be open to the appropriate authorities to revise, modify or reissue the relevant rules to ensure the achievement of the objectives of Article 16 (4). It has also been observed that if any authority thinks that of reinsuring adequate representation of backward class of citizens in any service, class or category, it is necessary to provided for direct recruitment therein, it shall be open to it to do so.

Government have taken due note of the feelings expressed by the hon. Members in this regard and would like to assure the hon. Members that Government would take a view on the issues arising out of the Judgement having regard to its constitutional obligations towards the advancement of backward class of citizens. The arguments with regard to the Mandal Commission before the Supreme Court were in the context of and with reference to socially and educationally backward classes. The implications of the Judgement of the Supreme Court, if any, in so far as the SC/STs are concerned need to be examined, after wider consultation, including with all political parties, before a final view is taken. The cannot be

any doubt on the commitment of the Government with regard to the protection of the interests of SC/ST.

There will be no immediate disturbance of the present dispensation regarding promotions.

(Interruptions)

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Speaker, Sir, so far as the Mandal Commission is concerned, the Government should clearly state as to when it is going to appoint a commission thereon? This is the commitment.

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Speaker, Sir, so far as the Mandal Commission is concerned, the Government should clearly state as to when it is going to appoint a commission thereon? This is the commitment of the Government in this regard. Today it is the last day of Parliament. When will the Government appoint the commission?

(Interruptions)

MR. SPEAKER: Paswanji! Not like this. If I allow you to speak, I will have to allow others too. All this has been done on your request. You should agree to the solution.

(Interruptions)

MR. SPEAKER: Since the solution was made on your request, you must comply with it. You should not aggravate our difficulties. Please take your seat.

(Interruptions)

MR. SPEAKER: Now Dr. Debi Prasad Pal will speak on Dunkel draft text.

(Interruptions)

[Translation]

SHRI SHARAD YADAV (Madhepura): Mr. Speaker, Sir,.....

MR. SPEAKER: Shri Sharadji, now here is an important issue. Please speak thereafter.

SHRI SHARAD YADAV: Mr. Speaker, Sir, whatever I want to submit, it is more important than that. I had expressed my doubt in the morning too.

MR. SPEAKER: If I allow you to speak, I will have to allow others also. You are not special member of the House. That is why I am asking you to sit down. Only at your instance, I made him to make this statement according to your own desire, his statement was made, even then you do not understand my thing.

SHRI SHARAD YADAV: Sir, you need not be displeased just I am to say that.....(Interruptions)

MR. SPEAKER: Look, Shri Sharadji, if you are allowed to speak, others too will have to be allowed to speak. Then this situation becomes very odd for me. If you have any doubt, I will request Shri Kesri to invite you and have a discussion with on this topic.

(Interruptions)

SHRI RAM VILAS PASWAN: We request the Government that a commission should be appointed. (Interruptions)

MR. SPEAKER: You should go to his

Chamber and request him. Do you think that he will not entertain you in his Chamber?

(Interruptions)

SHRI NITISH KUMAR: In connection with the Mandal Commission .....(Interruptions)

MR. SPEAKER: Shri Nitish, inspite of the fact that everything has gone so well, you are standing and talking like this. It means you do not believe in any sort of fairness and believe in disorderly thing. You do not accord any importance to the things which have been done properly.

[English]

SHRI FRANK ANTHONY (Nominated Anglo-Indian); Mr. Speaker, Sir, I have argued in the Supreme Court the very question of promotions.

MR. SPEAKER: I respectfully request you to guide Shri Kesri in his chamber. The time is very short. I have not allowed Sharadji also and he should not complain against me. I request Shri Kesri to call you to complain against me. I request Shri Kesri to call you to his Chamber and take your advice. He will benefited by your advice. Please help me because we are at the fag end of the Session and we have important business to transact.

17.27 hrs

PAPERS LAID ON THE TABLE - *CONTD.*

### Draft Agricultural Policy

[English]

THE MINISTER OF AGRICULTURE (SHRI BALRAM JAKHAR): Sir, I may be allowed to lay the draft Agriculture Policy on the Table of the House. It can be finalised

after discussion in the House.

[Placed in Library See no. LT-3296/92]

MR. SPEAKER: The Draft Agricultura Policy - It may not be a Resolution - is sought to be laid on the Table of the House. I think the hon. Members will appreciate it.

SHRI SOMNATH CHATTERJEE (Bolpur): Sir, copies have to be circulated.

MR. SPEAKER: Copies, both in Hind and English, will be circulated to all the Members later.

### MOTION RE IMPLICATIONS OF THE DUNKEL DRAFT TEXT ON TRADE NEGOTIATIONS - *CONTD.*

[English]

MR. SPEAKER: Shri Debi Prosadji...

(Interruptions)

[Translation]

SHRI RAM VILAS PASWAN: Mr. Speaker, Sir, when you allowed for the statement, you had paid that it was the opinion of the Members that the Government should put forth its views on the issue. (Interruptions)

MR. SPEAKER: You are speaking despite everything having been done according to your own wish. It is not proper on your part.

(Interruptions)

SHRI RAM VILAS PASWAN: We are referring to the Dunkel's proposal. What is the Government going to do regarding the Dunkel proposal. Please allow some discussion on it.