

and (b) explaining reasons for not laying the Audited Accounts of the Central Council for Research in Ayurveda and Siddha, New Delhi, for the year 1989-90 within the stipulated period of nine months after the close of the Accounting year.

[Placed in Library. See No. LT-462/91]

Central Advisory Committee on Equal Remuneration Rules, 1991 and Detailed Demands for Grants of Ministry of Labour for 1991-92

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR SHRI PABAN SINGH (Ghatowar): I beg to lay on the Table—

- (1) A copy of the Central Advisory Committee on Equal Remuneration Rules, 1991 (Hindi and English versions) published in Notification No. G.S.R. 514(E) in Gazette of India dated the 31st July, 1991 under sub-section (3) of section 13 of the Equal Remuneration Act, 1976.

[Placed in Library. See No. LT-463/91]

- (2) A copy of the Detailed Demands for Grants (Hindi and English versions) of the Ministry of Labour for 1991-92.

[Placed in Library. See No. LT-464/91]

12.40 hrs.

PUNJAB BUDGET, 1991-92

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SHANTARAM POTDUKHE): Sir, I beg to present a statement of estimated receipts and expenditure of the State of Punjab for the year 1991-92.

[Placed in Library. See No. LT-465/91]

12.40½ hrs.

JAMMU AND KASHMIR BUDGET 1991-92

[English]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SHANTARAM POTDUKHE): Sir, I beg to present a statement of estimated receipts and expenditure of the State of Jammu and Kashmir for the year 1991-92.

[Placed in Library. See No. LT-466/91]

12.41 hrs.

SPECIAL PROTECTION GROUP (AMENDMENT) BILL

[English]

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN): Sir, I beg to move for leave to introduce a Bill to amend the Special Protection Group Act, 1988

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to amend the Special Protection Group Act, 1988."

(Interruptions)

MR. SPEAKER: All the hon. Members are in a better position to understand because you were in this side of the House also...(Interruptions)...

[Translation]

SHRI GEORGE FERNANDES (Musaffarpur): Mr. Speaker, Sir, I rise to oppose the Special Protection Group (Amendment) Bill which the hon. Home Minister wished to introduce. I am opposing it because such a Bill cannot be introduced under the Constitution. The former Minister of State for Home Affairs Shri Chidambaram is present here. He would recall that when he introduced this Bill for the first time on 11th May, 1988, the opening sentence was

[English]

"Let me make one thing clear at the outset. This Bill is intended to protect the person who holds the office of the Prime Minister."

[Translation]

Sir, the entire gamut of law is being changed. It has been stated in the objects and reasons of the Bill that there is a need to redefine "family" in the new perspective. Earlier "family" meant members of the immediate family i.e. the Prime Minister, his parents and children, but now new meaning is being added when son and daughter is being included. This does not stop here alone. The main objective of the Act goes further...

[English]

MR. SPEAKER: Are you going into the contents of the Bill?

[Translation]

SHRI GEORGE FERNANDES: I am speaking about Constitution and nothing else.

MR. SPEAKER: Which of the provisions of Constitution has been controverted. Please come to that quickly.

SHRI GEORGE FERNANDES: I am coming to that.

MR. SPEAKER: It would be better if you please make the point briefly.

[English]

You have an opportunity to discuss this also.

SHRI GEORGE FERNANDES: I am on the legislative competence.

[Translation]

I can do that only when I describe that there is a basic difference between the Prime Minister and his family and that of former Prime Minister or late

Prime Minister and his family. Mr. Speaker, Sir, here I would like to point out to Article 13 of the Constitution--

[English]

Article 13 deals with 'Laws inconsistent with or in derogation of the fundamental rights'.

Article 13 (2) states: "The State shall not make any law which takes away or abridges the rights conferred by this Part..."

Now, I come to Article 14 which deals with 'Equality before Law'. It states: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

[Translation]

Mr. Speaker, Sir, when I discussed about the office of the Prime Minister you interrupted me. I was submitting that the post of the Prime Minister is a Constitutional post. The Special Protection Group was constituted under special circumstances. I remember that when this Act was first introduced on 11th May 1988 no objection was raised. Some of the objections were that the energies of the Police Department, the C.B.I. department and other such departments should be tapped to the maximum for the protection of the Prime Minister. The Special Protection Group Act was first enacted in 1985 on the recommendation of the Committee which enquired into the assassination of the late Prime Minister, Shrimati Indira Gandhi. The Special Protection Group thus came into existence on 1st April, 1985.

From 1985 to 1988, the Government took three years to bring a legislation on this subject. Even before the enactment of this law, this organisation was functioning. In 1988, the law was enacted to facilitate recruitment of a particular type of people in SPG in violation of the constitutional provisions and rules in force, and also to

[Sh. George Fernandes]

grant legal immunity to SPG personnel in case of any violation of law by them. In 1988, this provision to grant total immunity to SPG personnel was enacted. As I said, despite this objectionable provision the legislation was supported whole heartedly by the august House on the assurance of the then hon. Home Minister.

[English]

"Let me make one thing clear at the outset..."

[Translation]

These were his words Mr. Chidambaram is present in the House.

[English]

"...This Bill is intended to protect the person who holds the office of the Prime Minister."

[Translation]

The Prime Minister has got some status. He has got his own dignity in the Constitution. If an attempt is made to make a classification in the society, then it will be a case of direct violation of article 14 of the Constitution. The Government wants to create classes. Whoever comes to power, they, come with popular mandate and whatever they want to say, while in power, they should say with responsibility. Here, I would like to draw Government's attention to article 51 of the Constitution because generally people do not remember their fundamental duties.

[English]

Article 51A—Fundamental Duties say:—

"It shall be the duty of every citizen of India—

(a) to abide by the Constitution and respect its ideals and institutions..."

[Translation]

Will our Constitution provide for dual citizenship. In case my life is in danger, there will be a set of laws for me.

[English]

MR. SPEAKER: Is reasonable classification allowed or not?

[Translation]

SHRI GEORGE FERNANDES: What is the reasonableness of reasonable classification. Reasonableness is very important. I do not restrict myself to 51-A, but would like to go ahead.

[English]

Article 51A (b) says:

"to cherish and follow the noble ideals which inspired our national struggle for freedom."

[Translation]

What are those ideals. Will this kind of classification be done in Indian society? Will the cost of life of one person be different to other? Everyday, people are being killed in this country. Will they be given police protection? Will they be provided security cover by the NSG and the SPG. These are the fundamental duties in our Constitution. But I would like to go a step further and clarify a few things which is quite essential. If something is objectionable, then I have no reservations.

[English]

Among the fundamental Duties mentioned in Article 51A (d), it shall be the duty of every citizen of India—

"to defend the country and render national service when called upon to do so."

[Translation]

While on national duty I might be killed.

[English]

MR. SPEAKER: Are we going into this kind of debate?

SHRI GEORGE FERNANDES: I am on legislative competence.

MR. SPEAKER: No. No.

[Translation]

SHRI GEORGE FERNANDES: Whatever, I have to say against the Bill, I would spell out the same before the House.

[English]

MR. SPEAKER: To make all these suggestions, you have enough opportunity.

SHRI GEORGE FERNANDES: I am only on the legislative competence. My point is about creation of two classes in India. The Constitution of India does not permit you to do that.

[Translation]

I would like to draw your attention towards Part IV, 39-A

[English]

It says about equal justice that:

“The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity,.....”

[Translation]

What does the Government want to achieve through this legislation. According to the hon. Minister of Home Affairs there would be an expenditure of Rs. 4.5 crore per annum for the security of one family. The legislation was introduced in 1988 and in 1985-86 the amount spent on this head was only... (Interruptions)...

[English]

MR. SPEAKER: Has this Legislature the competence to legislate or not?

SHRI GEORGE FERNANDES: Sir, this Legislature has no compe-

tence to make a distinction between citizen and citizen. You cannot formulate a law which creates two classes of citizens, even if it is for their protection. Sir, protecting Prime Minister's life is one thing and protecting and taking responsibility to protect some special persons by special rights means creation of a different class of citizenship.

[Translation]

Sir, I am not raising the question of security of any individual. I am concerned about the security of the entire populace of the country. I have never bothered for my personal security, while discharging my duties. Police have always been after me. In 1975, orders to shoot me dead were issued to the Police, but it was to no avail. When for the first time, I joined Government, I refused security cover offered by Police and said for my whole life the police was after me and what security they were going to provide me then. I refused police protection even then. Now also I have refused personal security for me. The question is about discrimination between the people in power and the common man in the country... (Interruptions)...

MR. SPEAKER: If the need arises you will be provided security cover.

SHRI GEORGE FERNANDES: I will not accept and run away after breaking it. I know that offer of security cover will come from you. It was done earlier in my case... (Interruptions)...

[English]

MR. SPEAKER: Please for God's sake, no.

... (Interruptions)...

[Translation]

SHRI GEORGE FERNANDES: This is between you and me. Once my life was saved by you... (Interruptions)...

[English]

MR. SPEAKER: I was altogether on a different point.

[Translation]

SHRI GEORGE FERNANDES: I will not make a mention of it. Sir, I will not refer to it because of your greatness and my regard for you.

[English]

MR. SPEAKER: I was on a completely different point.

[Translation]

SHRI GEORGE FERNANDES: I honestly submit not to make a mention of it here in the House, but I would like to say that every life is precious and that is why I am not referring to anyone. I am saying that dual citizenship will...people...(Interruptions)...

[English]

MR. SPEAKER: What I was trying to say is that it is the duty of the Government to provide protection, if the Government feels that protection has to be given to a particular person.

SHRI GEORGE FERNANDES: Sir, that means, the Government is going to create dual citizenship. It is going to violate the Constitution, both in letter and spirit. Here, I am not discussing the spirit of the Constitution. I am discussing the letter and spirit of the Constitution. Sir, this law is totally beyond the legislative competence of this House and it shall not be allowed to be moved in this House.

SHRI LAL K. ADVANI (Gandhi Nagar): Mr. Speaker Sir, with my little understanding of law, I find it difficult to go entirely with Mr. George Fernandes insofar as the legislative competence is concerned. This House has the legislative competence to en-

act a law of this kind. But I do wish to say that the formulation is very unhappy. Though the law is proposed to be introduced today, I would like to request the Government to reconsider this formulation because this formulation makes a distinction between one former Prime Minister and another former Prime Minister. It makes a distinction between an assassinated Prime Minister and a non-assassinated Prime Minister, which is something inconceivable. Therefore, I can understand that in the peculiar circumstances in which we are, sometimes very extreme laws of this nature may become necessary. But while formulating those laws, let us not think in terms of assassinated Prime Ministers and non-assassinated Prime Ministers. I can understand if a law is being formulated to incorporate former Prime Ministers and families of former Prime Ministers. Therefore, I would request the Government not to press this Bill in this present form but to rethink over it, to review it and bring a proper formulation before the House.

[Translation]

SHRI RAM VILAS PASWAN (Rosera): Mr. Speaker, Sir I think that the Government would state with regard to the Bill it has introduced in the House that in Part 2 (A) of the Union List in the Seventh Schedule of the Constitution it has been mentioned. "Department of any armed force of the union or any other force subject to the control of the union or any contingent or unit thereof in any state in aid of the civil power: powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment:"

The Government has tried to bring forward this Bill in this House on this basis.

You are aware of the fact that in our country there are many kinds of police forces. The states have their own police force. C.R.P.F., B.S.F. and N.S.G. are also there. N.S.G. is

not in any manner either less powerful or less competent force. Its role has been commendable and above all we have formed S.P.G. As was said by one of our colleagues just now that at the time of constituting S.P.G., it was categorically stated in its objectives that the sole purpose of S.P.G. was the Prime Minister's security. Today the Government intends to extend its purview and with this in view, it has brought forward this Bill. As has been stated in the aims and objectives of the Bill that security may be extended to the Prime Minister's or a former Prime Minister's family members whose life might be insecure in future. Now the pertinent question is that who would judge that a serious danger to his life has really arisen. As such instead of what Advaniji has said, had it been mentioned that there is danger to the life of a member of family of Prime Minister or of the former Prime Minister, it would have been clearly understood. In that too if you mention that in the event of a Prime Minister's assassination or that the life of a particular member of his family is in danger, the same problem would arise as to who would decide its authenticity. If in the eyes of Government the life of a family member of the Prime Minister or of the former Prime Minister is in danger, he will get all the facilities, but if in the eyes of Government there is no such danger to the life of family members of any Prime Minister, he will not get these facilities.

It has been further mentioned that in order to extend security to the close relatives of the family, they are being brought under the purview of the Special Protection Group. Mr. Speaker, Sir, through you I would like to say that Article 14 of our Constitution is very clear, whose example was quoted by Shri Fernandes a short while ago. The main objective behind this Bill is to divide our society and the Members of political parties. When Shri Chidambaram moved this Bill, he said the present Prime Minister is being brought within the purview of this Bill and thereafter he

said that the former Prime Minister, who was assassinated should also be included in it. Now the question of security to the family members, after the assassination, arises and I understand that the Government's stand is totally vague. All of you are aware of the Government's intentions behind bringing forward this Bill. I do not want to go in details.

Security arrangements should certainly be made for the family members of former Prime Minister whose lives are in danger, but if the services of C.R.P.F. or B.S.F. are not utilized, even then we have other police forces of whom we are proud. Then why can't the Government avail of their services for this purpose. Where is the need of this specific provision. This is the reason why we consider the intentions of the Government improper. As per the provisions of our Constitution—equality before law—that means we are all equal before law and every citizen should be extended security. Through this Bill the Government would provide security to Members of one particular family and leave others at the mercy of God. As such we oppose this Bill and I urge the Government to withdraw this Bill failing which it is not likely to be passed in this House.

[English]

SHRI SOMNATH CHATTERJEE (Bolpur): Sir, I wish to make it clear that I do not like to make any comment on the necessity of providing security to the members of a particular family. On the basis of the situation prevailing, a decision may have to be taken. But what I was wondering is only this. Should we pass a Bill with regard to a very limited group of people only? There may be occasions when security is needed for others also, for example, members of Parliament. I would only remind you that we have been, on several occasions, trying to get the minimum security for a Member of Parliament who has been receiving threatening letters, even threats of

[Sh. Somnath Chatterjee] murder because he has moved a particular Resolution in this House. Therefore, on such matters, is he entitled to protection or not? Why should I have to run to you, to the leader of the House and to the Home Minister on more than one occasion to see that the Member of Parliament who belongs to our party is provided with minimum security? I don't mind your

13.00 hrs.

forming a Special Police Force, but you should not restrict yourself only to one or two categories of people and thus creating a feeling in the minds of the people that some people are more important than others. The difficulty is that only some people are more important people whose lives have some value and others life has no value. After all, one of the basic obligation of any Government is to provide security to all its people, to all the citizens throughout the length and breadth of the country. Therefore, I would like to know why this attempt is made to create a special class of people. I don't mind even leaving it to the Home Minister to decide in which case this protection is required. We have to have trust in the Home Minister of a country that he will arrange for the protection through the Special Protection Group to anybody he thinks necessary and who needs that protection.

Therefore, I would request the Government to enlarge the scope of the Bill so as to include others also, who need protection. On that basis, I would request the Government to consider this Bill once again.

SHRI JASWANT SINGH (Chittorgarh): Sir, I am not on the question whether protection is to be provided if there are categories of citizens in the country that require special protection. But, I go just a step beyond what my colleague and senior Member has said. I appeal to the Leader of the House and also to the Union Home Minister to please reflect on the phraseology of Clause 2 which

says "the former Prime Minister, assassinated Prime Minister and assassinated Ex-Prime Minister." What kind of phrase is that? Assassinated Prime Minister is already an ex-Prime Minister. How can then you have a third category of assassinated ex-Prime Minister? I don't know who has drafted it. So, please do reflect on it. I am not going into the merits of the case.

MR. SPEAKER: It means that the Prime Minister assassinated when he was not the Prime Minister.

SHRI JASWANT SINGH: You just see at the categories, Sir. We don't want to become a laughing stock. *(Interruptions)*

Sir, the entire phraseology is very unhappy. Are you contemplating further assassinations? I can understand that some such requirement might be necessary but certainly the Union Home Ministry in its wisdom and with the army of Civil Servants that the Ministry has, they could have come forward with a happier drafting and a happier combination of words. We are going to become a laughing stock here.

SHRI NIRMAL KANTI CHATTERJEE (Dum Dum): Sir, there could be cases of assassinated ex-Ministers also.

MR. SPEAKER: Mr. Chatterjee. I hear you on economics, on industry and not on this.

SHRI SOMNATH CHATTERJEE: Or, it can cover the would be assassinated Prime Ministers also.

MR. SPEAKER: Mr. Dighe I think it is very simple and you don't have much to say on this.

SHRI SHARAD DIGHE (Bombay North Central): Sir, I will take only two minutes.

Mr. Speaker, Sir, at this stage the only ground on which this Bill can be opposed is the legislative competence of the House and that is done only by Shri George Fernandes. As far as other hon. Members are concerned, they have spoken regarding the unhappy phraseology of this Bill or on the propriety of protecting only the assassinated Prime Ministers' families etc. Therefore my submission is that at this stage the other arguments are not relevant or need not be considered at all.

As far as the legislative competence is concerned, Mr. George Fernandes has not been able to support his contention in substantial manner. He has referred to Article 14 where equality before law has been mentioned. As you have rightly pointed out, reasonable classification is allowed as far as this Article 14 is concerned. If the Members of the assassinated Prime Ministers' families are also included in this definition for the purpose of giving special protection by Special Protection Group then, as far as this article is concerned, Article 14 is not at all hit. That way, why protection to the Prime Minister only? You may say that everybody is equal before the law—Equality before law—why classification? Why protection only for the Prime Minister? That may be the logical argument of my learned friends. Therefore, that argument does not hold good at all. Special classification can be made as far as the law is concerned and this Protection Group can be given.

Shri George Fernandes had also referred to Fundamental Duties. I do not know how they are relevant at all. The Fundamental Duties are duties of citizens. How do they hit this law? How does this law violates the provisions of the Fundamental Duties under Article 15(1)(a) which he referred to? He had also referred to Article 39(A), if I have understood him correctly. Article 39(A) absolutely refers to Equal justice and free legal aid. Are you referring to Article 39(A) or Article 39(a)?

As far as Article 39(a) is concerned, it has no application at all. It says: "The State shall, in particular, direct its policy towards securing—

- (a) that the citizens, men and women equally, have the right to an adequate means of livelihood;"

That also has no relevance at all.

Therefore, so far as the legislative competence is concerned, the argument of the Opposition does not hold good at all.

SHRI S. B. CHAVAN: Mr. Speaker, Sir, I was just trying to understand what my learned friend, Shri George Fernandes had to say about the competence of this House to legislate on a matter. He himself admitted that already the Act is there in spite of the fact that some people had opposed at that time also...

SHRI GEORGE FERNANDES: Nobody opposed it.

SHRI S. B. CHAVAN: That is all right. But in spite of the opposition, the Bill was passed and it was enacted.

SHRI GEORGE FERNANDES: There was no opposition to the enactment or to the passing of the law. People may have had reservations but there was unanimity in so far as the Prime Minister is concerned.

SHRI S. B. CHAVAN: This time also, I expect the same kind of unanimity on the part of the hon. Members. (*Interruptions*)

SHRI GEORGE FERNANDES: This country cannot afford Rs. 4.5 crores per annum for protecting each family members of ex-Prime Ministers. I will be very-very blunt on it.

[*Translation*]

SHRI RAM VILAS PASWAN: We are their neighbour, they have lot of power, they can shoot anyone.

[*English*]

SHRI S. B. CHAVAN: I can well understand the contention of the Leader of the Opposition that a better phraseology should have been used. I can go deep into the matter and try to find out as to how best we can possibly modify the same. But I can say that this Bill has been brought about because of the threat perception that we see. If classification as such is required and if the Government were to come to the same conclusion that in the case of any ex-Prime Minister, if we have the similar kind of threat perception, certainly, at that time, we can consider as to whether any amendment in the Act is necessary. But as things stand today, the perception of the Government is that there is a real danger to the lives of the family members of the ex-Prime Minister Shri Rajiv Gandhi and that is why this Bill was necessary. This is quite a reasonable restriction and the Court's exemptions are also admitted and that is why I would request Shri George Fernandes not to press for it.

MR. SPEAKER: The hon. Members have made their points.

The question is:

"That leave be granted to introduce a Bill to amend the Special Protection Group Act, 1988."

The motion was adopted.

SHRI S. B. CHAVAN: I introduce the Bill.

13.10 hrs.

MATTERS UNDER RULE 377

[*English*]

MR. SPEAKER: The House now shall take up matters under rule 377. Shri P. C. Chacko.

(i) **Need to issue 'title deeds' of their properties to the agriculturists of Kerala**

SHRI P. C. CHACKO (Trichur): A large number of agriculturists of Kerala occupying the forest land prior to 1977 are denied the titles of their properties. Their hard toil contributed a great deal to produce more agricultural produce and earn valuable foreign exchange by producing cash crops for export. Governments, both at the Centre and in the State, had promised time and again that the titles will be distributed. Kerala Government's request to Central Government to exempt these people from Central Forest Act Provisions has not been granted so far. Expeditious steps may be taken by the Ministry of Environment and Forests to issue title deeds to the farmers.

(ii) **Need to open a TV centre at Nowrangpur in Koraput district Orissa**

SHRI K. PRADHANI (Nowrangpur): Nowrangpur Parliamentary Constituency in Koraput District is the second largest district in the country predominantly inhabited by backward people. The area is larger than some of the small States in the country and the population also is more than that of Meghalaya. The electronic media i.e. television centre, is the latest method to educate the people. There is no television centre in that constituency.

I, therefore, urge upon the Information and Broadcasting Minister to open a centre there early in the interest of the people there.

(iii) **Need to review and reinforce the Tractor (Distribution and Sale) Control Order, 1971**

[*Translation*]

SHRI GABHAJI MANGAJI THAKORE (Kapadwanj): Mr. Speaker, Sir, the Government had issued the Tractor (Distribution and