

**15.00 hrs.**

interview is taken by the Branch Manager asking him as to how many spokes are there in the wheel of a cycle.

MR. CHAIRMAN (Sharad Dighe): Now it is 3 O' clock. The discussion under Rule 193 begins. You may continue next time.

[*Translation*]

SHRI ANNA JOSHI (Puna): When will you take up this Bill?

MR. CHAIRMAN: Discussion on the Bill will proceed on the next occasion-I do not know when. After the discussion is over under Rule 193, discussion on the Bill will proceed.

**15.02 hrs.**

#### DISCUSSION UNDER RULE 193

Socio Economic Criteria for Exclusion of creamy Layer from Mother backward classes"

[*Translation*]

SHRI RAM VILAS PASWAN (Rossera): Mr. Chairman, Sir, today again we are discussing an important matter which not only relates to the majority section of the society but to that section of the society which has been deliberately suppressed for centuries. I fear that if justice is not given to them without further delay, the unity and integrity of our country will be in danger. Therefore through you, I want to urge upon that if Shri Kesri ji is giving a reply today, it means that the Government might have reached at some conclusion and would make a categorical reply in this regard.

Mr. Chairman, Sir, I will not go into details that what Mandal Commission is, when it was set up and when did it give its report but I would certainly like to state that it is repeatedly said in this country that a commission may be set up, a committee may be set up, but unless the Government has a clear conscience, it is not going to solve any problem. There is a conflict between mind and heart in this country. I am of the view that politicians have feelings but they lack intelligence and the one who is intelligent, lacks feelings. If mind and heart take same direction, then it leads to a revolution but here it is just the reverse. One cannot get rid of the clutches of bureaucracy. Even Pt. Jawahar Lal Nehru could not get rid of it, then how far Shri Kesri will be able to bear it? How Kesriji can comment on it? It is a matter of regret that this Government finds itself incapable of providing justice to this majority section of the society. Mr. Chairman, Sir, it is a question of political will. Our Government remained in power for 11 months and therefore we could also have said that as the report of Mandal Commission was submitted in 1980, what was the need of implementing it in 1990. We could have even denied it and could have opted for the formation of a third commission on Backward Classes like the second commission of backward classes, which was set up in 1977.

Mr. Chairman, Sir, we could have taken such a cover but our Government did not do so. Our Government had this apprehension that if it raised the issue of the weaker sections of the society then the system would have replaced it because casteism is in the root of this system which remains there till one dies. You may change your religion or Government or convert rich in to a poor man and poor in to rich man but you cannot change caste. Whosoever makes efforts to do so, the social system is sure to bite him like a serpent. Be it Buddha, Dayanand Saraswati, Vivekanand, Gandhi

or Lohia, whosoever has tried to strike a blow to it, has not been spared we too have not been shared. The Government of Janata Dal is bitten the this erpent. If you try to ameliorate the condition of this neglected section of the society, you should be prepared for the grave longenceses. Therefore, I as saying to Shri Kesriji that you should be prepared to face all such risks as our Government remained in power for only 11 months and if you do not bother about remaining in power, only then you will be able to implement it. If you do not strike deep in the heart you will not be able to do anything in letter and spirit. Therefore, our Government, which remained in power only for one year showed better performance than the Government which remained in power for 50 years. This was the sole reason for the downfall of the Government of Rashtriya Morcha. But the name of Rashtriya Morcha has become historical and whenever there is a case of backward classes, the reference of Rashtriya Morcha will surely be there. People of all walks of life do realize it. (*Interruptions*).

Mr. Chairman, Sir, now Sikh Community is also raising its voice. Guru Gobind Singh had made Panch yaras who included persons from backward classes belonging to Kachi, Nai, Darzi and Bhemar castes. Not even a single Brahmin adopted Sikkim. All of you, sitting here, very well know that who adopted Islam in this country. The shudras and backward classes who were denied their rights adopted Islam. They were not allowed to enter temples, to wear good clothes and to perform social and religious rituals and were labelled as untouchables. Babar, came to India in the year of 1526 but before that also this country was not ruled by Hindus, you will find that since the year, 1035, Hindustan was ruled by the Ghulam dynasty, Tughlk dynasty and then Babar defeated Ibrahim Lodhi and ruled India.

Mr. Chairman, Sir on one hand there

are rigid customs of Hindu religion and on the other, if a beggar and a king enter a Mosque together, they will sit together to eat. This led to people change their religion on a large scale. Thereafter, came the Sikh religion and Guru Nanak Deve ji gave Kachha, Kripan, Kara, Kesh and Kangha to five persons of backward classes and declared them as symbol of their religion. Shri Buta Singh, who belongs to scheduled caste becomes a Minister and Gyani Zail Singh, who was a Barhai carpenter, had been our President. Likewise, you may see in Rajasthan like Shri Ram Niwas Mirdha etc. everybody's name bears the name of Ram. In Haryana, you will find names like Devilal, Bhajan Lal, Om Prakash Chautala. That is why people were backward and Christianity expanded like anything. You will find that no Brahmin has adopted Christianity, only Dalits and Adivasis are there. Be it Mizoram, Meghalaya, Manipur or Arunanchal Pradesh, you will find Christians everywhere. Tribal Hindus are there in Bihar. In South, you will find that these people have been converted into Christianity. Thereafter, Baba Saheb Ambedkar highlighted the merits of Buddhism which was adopted by lower castes only. Therefore, when we talk of Hindu-Muslims, Hindu-Sikhs and Hindu-Christians, we should admit this fact that these Muslims are not the progeny of Babar or Gauri. At that time they were only one thousand and with the passage of time then have reached the mark of 14 crores; they are our brethern. The Sikhs, who are sitting here, are our brothers. Therefore, it is all because of our old caste system. If any new religion comes into existence, they would join that also.

Just now Shri Surajbhan ji was sitting here. I would like to inform him that about ten years back, a case of religion conversion took place at Minakshipuram. There was much had and cry over the conversion and it was alleged that the money was received from America for conversion of religion. We also raised that matter in the House which

[Sh. Ram Vilash Paswan]

led to the constitution of a Committee under the Chairmanship of Shrimati Margatham Chandrasekhar to enquire into the matter. When the Committee asked a boy the reason of his conversion from Subaiyya to Yusuf, he asked the Committee to take an old man to a tea shop and tell the shopkeeper that he was a Harijan and he might be served a cup of tea. Shrimati Chandrasekhar asked the shopkeeper in her own language to give him tea. The shopkeeper asked whether he had brought his own tea pot or not? When they replied in negative, the shopkeeper asked them to wait and said that when tea would become cold he would put that in his mouth from a distance. When the shopkeeper was asked that why he was saying so, he told that if the people came to know that he had served tea to a Harijan, they would set his shop on fire. The boy, who was a Doctor, asked me that when 11 MPs could not get tea for a Harijan, what right we had to ask them about their caste. If we become Sikh or Pal, no one would ask our caste. Our Caste is being asked because we have been following Hindu religion for thousands of years.

As you know, Mandal Commission report was presented in the House in 1980. I was the Member of the House in 1981. Shri Balram Jaxhar ji is not here, I would like to thank him because when we raised this matter in the House, he assured us that the report would be presented in the House. I am also aware of this fact that how Government and created hurdles at the time of presentation of the report. In the last we said in the evening that we would not leave the House till the report of Mandal Commission was not presented. Then the hon. Speaker gave his ruling and ultimately report was laid on the Table of the House. After that the Government was not prepared for a discussion on the report. But when we insisted, only then it was discussed and that

too thrice in the House. Neither opposition nor Treasury Benches opposed its implementation. I still remember when Shri V.P. Singh made the announcement on 7th August for the implementation of Mandal Commission, Shri Sitaram Kesri had asked that why we were providing reservation in jobs only and not in education.

THE MINISTER OF WELFARE (SHRI SITARAM KESRI): When Shri V.P. Singh made announcement about the Mandal Commission, I did not raise any question but supported it.

SHRI RAM VILAS PASWAN: Our other colleagues said repeatedly that it should be implemented in other fields as well. I have the report of Mandal Commission with me. Mr. Chairman, Sir, you have been a socialist leader and you have been our leader also. You have been raising slogan in Socialist Party that:

Socialist Party bandhi ganth  
pichhra paave sav main sath  
Rajpath hai kiske hath  
Angrezi aur unchi jat  
Unchi jat ki kya pahchan  
git-pit bole kare an kam  
chhoti jat ki kya pahchan  
Kare kam aur sahe apman  
Angrez yahan se chale gaye  
Angrazi ko bhi jana hai  
Angrezi main kam na hoga  
Phir se Desh Gulam na hoga  
Rashtrapati ka beta ho  
ya ho chaprasi ki santan  
Birla ya garib ka beta  
Sabaki shiksha ek saman.

We were surprised to see that when Shri V.P. Singh announced the acceptance of Mandal Commission's report, people started self-immolation. It should be remembered as to why Mahatma Gandhi had to go on fast just before the attainment of independence, He did so because even

leaders like Baba Saheb Ambedkar and an apprehension in their minds that the country might get political independence but there would be no talk of social independence. The backward classes will not have any share in power. That was why the Prime Minister like Pt. Jawahar Lal Nehru could not get Kaka Kalekar's report implemented. Then Janata Party Government came to power and a Commission was set up under the Chairmanship of Shri V.P. Mandal. The report of Mandal Commission had been gathering dust for 10 years. When V.P. Singh Government came to power, it took the risk of implementing the Mandal Commission's report. We remember that it was said by Shri Atal Bihari Vajpayee in the House that some inspiration should be taken from the manifesto. At that time, it was said that we had our commitment to Mandal Commission and neo Buddhists (Nav Buddhists). We sacrificed our Government and we have no regret for it. Then the Present Government came to power and from the very beginning it has been making all efforts to dilute the recommendations of Mandal Commission. The Government have repeatedly said in the Supreme Court that it wanted economic criteria for reservation. You were talking of 'the most backward' among the backward classes but instead of repeated queries by the Supreme Court, you could not define 'the' most backward.' What does it mean? Subsequently the Government said in the Parliament that it was ready to abide by the judgement of the Supreme Court. That means, you have given the formula. It was decided by our Government that 27 per cent civil posts under the Government of India would be reserved for socially and educationally backward classes. The said reservation would be applicable in direct recruitments. The candidate belonging to socially and educationally backward classes, who qualify on their own, would not be included in 27 percent quota. In the first phase those castes and communities would be included which have been included both

in the lists of Mandal Commission and State Government. The list of such castes and communities is being issued separately.

Then we stated that it would be implemented for ten years in the first instance and after that it would be revised. After ten years, assessment would be made whether some castes or persons have come up. On 25th September, the Narsimha Rao Government moved an amendment under which the benefit of 27 per cent reservation in civil services and in other jobs under the Government of India was to be given to 'more poor' among the backward castes, on priority basis and if the number of such candidates is not adequate, the candidates of other socially and educationally backward classes would be given chance. Other 10 per cent posts would be reserved for economically backward people who are not covered under any existing scheme of reservation.

The V.P. Singh Government was of the opinion that the matter of reservation for economically backwards was not provided in any Constitutional provision. If the Government wants to do it, it should bring a separate Amendment to the Constitution and all would support it. At that time, we were labelled as anti-high castes. But you are their supporters, then why have you not done anything for them in the last two and a half year? You called it a casteiest step but what caste the persons in the Constitutional Bench belonged to is not known to us. However the Chief Justice Shri Kania certainly belonged to a high caste. The Supreme Court upheld the validity of the decision of V.P. Singh's Government and the amendment of the Congress Government was declared null and void. The Supreme Court accepted the criterion of 27 per cent reservation for socially and educationally backward classes.

It is true that the Court asked for the setting up of an expert committee to

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determine creamy layer. But what did the Government do after that? The Supreme Court gave its judgement on 16th November and the Government constituted expert committee on 23rd February. On 11th March, the Committee submitted its report and on 16th March the Government accepted it without going through it. When this report was laid by the Government on the table of the House, one line statement was given in the House that a copy of the report of the Expert Committee submitted to the Government on 10.3.1993, was laid on the table of the House. The Government had accepted the recommendations contained in the report.

Kesri ji, the Government preferred to remain unconcerned about the fact that the recommendations it was going to accept had already been disagreed to by the Supreme Court on the ground that economic criterion was not the concrete basis, rather social and educational condition should be made the basis for reservation. It was just like throwing a swimmer in a river with his hands and legs tied and asking him to swim.

I would like to ask as to what are those recommendations. There are only 4-5 recommendations relating to Constitutional provision of posts, Government services, commercial trainings and above all agriculture. A farmer having 65 percent irrigated land falls within this purview. For instance 12 acres of land is the ceiling in Uttar Pradesh and a person having 8 areas of land would be deprived of reservation. The Supreme Court in its judgement has stated that it would not only be difficult but also risky to fix norms on the basis of income from agricultural means. On the basis of majority opinion, the apex court, while supporting the Observations made in paragraph 809, stated that besides, it would be difficult to evaluate the total income from

agricultural resources, and therefore, a limit should be fixed on the basis of cultivable land holdings. The income of a person should be taken in the context of his social prosperity and that the limit should not be fixed in a manner which would amount to taking away with one hand what is given with other. It has been stated.

[English]

"It should not be such as to result in taking away with one hand what is given with other."

(Translation)

Kesri ji, this is what the Government did. The Supreme Court on the basis of majority opinion stated that it is only when a person makes a remarkable development from social and educational point of view and is no more a part of his backward society, he may be separated and considered a part of the creamy layer. All the hon. Members are present here. They may please tell whether a person having 8 acres of land can no more be one among the persons who have 2 acres of land? If it was so, why income tax was not imposed on land? It was because land was not considered remunerative. Today, the farmer is in the most deplorable condition and that is why he has been exempted from the income tax. The Government has not fixed ceiling for separating people from their society and including them in the creamy layer. It is nothing but depriving the farmers having 60 percent of the irrigated land from this benefit.

Mr. Chairman, Sir, through you, I would like to submit that it is not the way to assess the society. Our colleagues Shri Mohan Singh, Shri Sharad Yadav, Kunwar Rewati Raman, Shri Vishwanath Pratap Singh and myself were at Allahabad on 21st instant. Four members of a Muslim family were killed there. I have myself visited the house in Atala locality. A person named Ram

Sajjan Yadav was killed. A young boy belonging to Scheduled Castes was forcibly taken away from his house and murdered on the charge of killing an SHO, whereas the person who had actually murdered the SHO had himself admitted his crime before the DSP and was put behind the bars under the National Security Act. While the criminal was behind the bars, the innocent persons were killed. The criminal and the victim belonged to the same caste. In this country, economic criterion is kept at the secondary place while the caste factor dominates. The Government not only accepted, but also implemented the report without taking into account various aspects of the matter. Mr. Chairman, Sir, I am of the view that the hon. Speaker took the matter seriously. That is why he discussed the matter with the Government in his Chamber and also directed them to take the opposition into confidence in this regard. We discussed the matter thrice with the Government. Persons like us get 27 percent reservation even today but just 4 percent of the total reservation quota has been filled so far. There should be a provision for 87 percent reservation. The Supreme Court on the other hand has directed that the Mandal Commission report should be implemented. I would like to submit that nine months have already passed. Kesri ji may please say whether a single youth from the backward classes has been given employment on the basis of the recommendations of Mandal Commission. Rather the Government has deprived the people of the downtrodden classes, Scheduled Castes and Scheduled Tribes from job opportunities on the pretext of Mandal Commission Report. The Government has withdrawn the reservation facility in promotion, but has not implemented the recommendations of Mandal Commission. Therefore, I would like to submit that the Government should not apply the economic criterion as long as 27% reserved seats were not filled as per the recommendations of Mandal Commission. The matter with regard to IAS officers was

raised. The Government could have continued the facility at least for a shorter period but they did not do so. The candidates have to show certificates of their belonging to Scheduled Castes to seek admission in IAS. However they become forward as soon as they clear the course. I am unable to understand this concept.

The Government may start from the lowest level of the Scheduled Castes to fill the 27 percent reserved quota. This concept could be understood. But it is not justified to deprive those having 8 acres of land or class one and class two officers or persons having an income of about one lakh rupees, of reservation facility. In such a situation, the people eligible for reservation would not be more than two percent. Then how will the remaining twenty five percent quota be filled? I am aware that the entire House have the same feeling that reservation may be started from the lowest level of the backward classes. The Government not deprive the people of backward classes of their rights in the name of creamy layer as it has not provided anything to them except Government service. Moreover, this is just a proposal and not the implementation. The Supreme Court has approved the proposal of reservation in Government services only. But if in this field also, the Government dances to the tunes of bureaucracy, on welfare can be done for the Scheduled Castes. Mr. Chairman, Sir, whenever people like me talk of social justice, it means justice to all—whether they are people of backward classes, upper classes, minorities or downtrodden. All classes of the society should get justice. From that point of view Shri Ram Vilas Paswan does not come under the category of backward classes. We come under the downtrodden classes and we fought in favour of the recommendations of Mandal Commission. We fight for minorities even today and it is the same Janata Dal. We fight for the reservation of financially backward people in upper classes also. Thus we advocate justice for people of all sections

[Sh. Ram Vilash Paswan]

of society.

Sir, therefore, I would like the Government to withdraw the idea of imposing economic criteria, because it will encourage corruption. Perhaps Shri Sitaram Kesri is not aware of the fact that the candidates of Scheduled Castes and Scheduled Tribes have to face a lot of hardship to get the caste Certificate issued. Their difficulty would increase if they have to get income certificates also. If bribe is given, the Income certificate will be issued, otherwise no certificate will be given and by the time such certificate is issued, the eligibility period for employment will be over. Therefore, the idea of economic criteria should be dropped.

Sir, in the end I would like to ask whether in view of the fact that nine months have already passed, what initiative is proposed to be taken by the Central Government to prepare the list of backward classes in the States where these have not been prepared so far. It was just three days after Mandal Commission had been set up. I remember it was 13th—that we had sent 14 joint Secretaries to prepare the lists of backward classes in States. They were also directed to set up committees where lists were not prepared because the major portion of population in this country cannot be neglected. People in these States should also be given the benefits recommended by the Mandal Commission. If they are deprived of it, the consequences would not be good. These days power is not inherited from parents. Ballot boxes decide the fate of rulers. The ruling party has no power to elect a Chief Minister against the choice of common masses. Since 50-52 percent of the total population consists of backward classes, 25 percent of downtrodden Adviasis, and 13 to 15 percent of minorities make a total to 92-93 percent and they are the people who will be

elected to the highest posts like that of the Chief Ministers and the Prime Minister. You will not be able to prevent them from coming to this level. Therefore, they must be given justice at the earliest. If justice is not done at the earliest, there will be a revolt. Here I would like to give an analogy of a volcano which erupts because of certain pressures within the earth, there is a saying—

[English]

That which is down need not fear the fall.

[Translation]

This means that who is at the bottom has no fear to fall, but who is at the top should pray for himself.

"Hum to Dube Hon Sanam, Tumko Bhi Le Dubenge".

SHRI RUDRASEN CHAUDHARY (Bahraich): Mr. Chairman, Sir, the House is today discussing the principle of creamy layer as directed by the Supreme Court. According to the direction of the Supreme Court, a committee was constituted by the Government, but the Government decided the issue before it could be discussed in the House and stated that the Government has decided to accept the recommendations given in this report. But it appears that until a meaningful discussion is held on the theory of creamy layer, the question of reservation cannot be solved properly. The provision of reservation in the Constitution and the struggle for it is not only to provide and get employment. The intention is clear in the Constitution that those classes, who do not have adequate representation in services, who are neglected, and who have been subjected to discrimination and who have to struggle to get a respected place in the society, should be given the benefit of reservation. The intention behind the struggle is that they want a share in the power. The

same idea is behind reservation in the Government services. If they are allowed to have a share in the power, they will also get a respected place in the society and this is the background of this struggle.

Mr. Chairman, Sir, the BJP has always made his intentions clear in this regard. Recently in our national conference at Bangalore, we had repeated that BJP is in favour of giving 27 per cent reservation to the backward classes according to the recommendations of the Mandal Commission.

SHRI VISHWANATH PRATAP SINGH (Fatehpur). And Shri Atal is going to start a Rath-yatra.

SHRI ATAL BIHARI VAJPAYEE (Lucknow): We had undertaken Rath-yatra once and there direction was disturbed. Why you are giving an invitation of rath-yatra again? (*Interruptions*).

SHRI VISHWANATH PRATAP SINGH: The earlier rath-yatra was taken out by Shri Advani, now it is the turn of Shri Atal. Earlier it was about 'Kamandal', now it will be about Mandal.

SHRI RUDRASEN CHAUDHARY: The benefit of reservation to the backward classes should be given from lower level to upper level and every backward class should get this benefit. Poverty is one reason behind backwardness. Besides SC/STs and other backward classes, economically weaker sections should also be given 10 per cent reservation on the basis of economic criteria. If it is necessary, the constitution should be amended to make the policy more effective. Our party believes in creating social goodwill among all the classes; we have also accepted this in our social policy statement at Bangalore conference.

The Government had introduced the

bill on the 'Commission on backward classes' during the last session and a discussion was also held on it, but it was not given the adequate powers through which the backward classes can get reservation, social equality and respect in the society.

Mr. Chairman, Sir, so far as creamy layer is concerned, such discrepancies have been created in it that it is not becoming clear whether the backward classes will get justice according to the decision of the Government. Some special provisions in it are controversial, such as a Government official who is earning Rs. 50000/- per annum will not get the benefit of reservation, whereas a businessman earning more than the official can have the benefit of reservation. Even if the businessman does not show his earning correctly, he will get the benefit. Any class-II official who is getting a basic salary of Rs. 3000 or more will get the benefit of reservation, whereas a class-I official getting a basic salary of Rs. 2200/- p.m. will not get the benefit. Prior to me, Shri Ram Vilas Paswan told about the 65 per cent ceiling of land. It has been made clear that in Uttar Pradesh, 8 acres of land accrue to 65 per cent. Which crop will be taken as a standard crop in respect of deciding the creamy layer. An economic criterion of Rs. 1 lakh was fixed. How a farmer cultivating only 8 acres of land will earn Rs. 1 lakh. I think that the committee which has prepared this report, has no idea about agriculture. Even if the economic criterion is accepted, it cannot be implemented. During the discussions on Mandal Commission Report a mention was made about the indicators. Some indicators were fixed. They were social, educational and economic. Separate marks were fixed for each of the indicators—3 marks for social, 2 marks for educational and 1 mark for economic criteria. In this way, a total mark of 22 was fixed. While preparing the list for backward classes, it was made clear that those who get 50 per cent mark will be included in the list and those who get more



will not be kept in the list. The social criterion is the most significant aspect of the reservation policy because of the discrimination prevalent in the society and it should be considered thoroughly. There should be social equality and the Government has to ensure that those who are to be uplifted, should get employment. The backward classes are living in the villages since long. I belong to a village and know that those who are called backwards, are mostly village. The Government has not made sufficient arrangements which may enable them to take part in competitions. It has to make such arrangements in the villages and has to create awareness in the society. Different States have different level of backwardness and it keeps on changing. When the Kaka Kalelkar Commission was constituted, the number of backward classes was 2,379. Out of them, 837 castes were considered as the most backward. This was the situation in 1953 and 1955. The Mandal Commission calculated this number as 3473 and 2108 respectively. This was the situation in 1978 and 1980. But according to the latest survey and the Project of India report, the total number of backward classes was estimated to only one thousand. In this situation, the Government has to ensure that the number of backward classes in every State should be properly listed and a commission should also be constituted, which should identify the castes which come under backward classes. The economic criteria should also be kept in mind and such a situation should be created as may provide proper justice to the backward classes. The suggestion of creamy layer should be reconsidered. If it is accepted in the present form, the backwards will be unable to get the benefit. The backward people who have been struggling for it belong to the same layer which is considered as creamy layer and which is being kept aside. It is necessary that the backward classes should get

reservation. Besides that, it is also necessary that the Government should decide as to when it is going to recruit the first batch under 27 per cent reservation policy. I would like to know these two things from the hon. Minister of Welfare. He should tell us the time by which these people would get an opportunity to serve after implementing such a provision.

With these words, I conclude.

SHRI RAM LAKHAN SINGH YADAV (Arrah): Mr. Chairman, Sir, I rise to speak on this issue for the first time.

[English]

SHRI RAM NAIK (Bombay North): Sir, I am on a point of order. If a Member addresses the House, he must speak from his allotted seat. I would urge upon you to see that he speaks from his seat and the rules are observed and not just ignored like this. (Interruptions).

SHRI NIRMAL KANTI CHATTERJEE (DUMDUM): From which party he is speaking?

MR. CHAIRMAN : Congress.

[Interruptions]

SHRI NIRMAL KANTI CHATTERJEE: Has he been enlisted as a Member of the Congress party? We have not been issued with any such atatement or bulletin. We have not been informed of his joining the Congress party.

SHRI RAM NAIK: Sir, he must speak from his seat. He cannot speak from any other seat. (Interruptions).

[Translation]

THE MINISTER OF STATE OF THE  
MINISTRY OF FOOD (SHRI KALP NATH

RAI): He belongs to the Congress party. Please sit down.

SHRI NITISH KUMAR (Barh): I am on a point of order. I have an objection to his speaking. He can speak. Shri Ram Naik said that he must speak from his seat. Sometimes, we do not speak from our seats and speak from the seats allotted to others. But when I was asked as to the party to which he belonged to, you said that his name has been sent by the Congress party. The hon. Minister, Shri Kalp Nath Rai also said that he should be allowed to speak since he belonged to the Congress party. You should clarify the position and say that he belongs to the Congress party. Then we have nothing to say. The matter is pending with the hon. Speaker. If his entry in the Congress has been done, it is O.K.

SHRI DEVENDRA PARASAD YADAV (Jhanjharpur): Mr. Chairman, Sir, I am on a point of order. Hon. Member, Shri Nitish Kumar and several other hon. Members have raised an objection. We have no objection to the speaking of an hon. Member in the House from any seat. But the objection is that from the Chair you said that he belonged to the Congress party. Therefore, we seek your ruling on this issue. The hon. Minister has said that he an hon. Member from the Congress party whereas this question has been raised in the House and the hon. Speaker has already given his ruling that the matter is under consideration. What I understand is that either the ruling has been changed by the Chair or some other decision has been taken. When did he join the Congress party and how? You made the announcement. Then what is his Division Number? The hon. Members would like to know all these things. This is the point of order.

[English]

THE MINISTER OF WATER

RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Sir, the seven Members who have appeared before the Speaker and the Secretary-General of the Lok Sabha have affirmed individually and they have written in the presence of the witness that they have left Janata Dal (A) and they have joined the Congress party. I, as the Chief Whip of the Congress Party in Parliament, has written to the Speaker informing him that these Members have become the members of the Congress Party. I have issued whips to them and they are sitting with us; the allotment of seats will take place later on. According to the procedure followed in this House, any Member can speak from any seat.

SHRI RAM NAIK: No. no. (Interruptions).

6.00 hrs

SHRI UDYACHARAN SHUKLA: Please don't disturb me. I am the oldest and the seniormost Member of this House and I know this. I have seen this for the last 35 years. You cannot say, 'No. no. You and I can say here that anybody can speak from any seat. You have to go to your own seat for voting purpose only. This is absolutely not permitted here for any Member to object to any Member speaking from some seat other than his own.

As far as the membership of this hon. Member is concerned, the hon. Speaker has been duly informed and the Party has, following its own procedure, admitted them. These seven Members are the members of the Congress Party, full members as any of us are, and therefore, any objection raised regarding their status should not be upheld by the Parliament and the House should admit this particular fact that has taken place in accordance with law and procedure of this House. (Interruptions).

SHRI VISHWANATH PRATAP SINGH: Sir, I want clarification on a point. Only yesterday we were told that the matter is pending berfore the Speaker. Now, are we to know that the Speaker has decided the issue? Secondly, if the Speaker has not decided the issue, then, Sir, even if a split occurs, the issue is debated. Shri Ajit Singh has already put in an application to find out whether it is a split or defection. Whether they can split or not, their number is there or not—all that debate is still there. There is no decision of the Speaker.

Sir, a Member, if he leaves a particular party, unless that group formed is one-third, it cannot go to another party. If a Member goes with an individual application, he becomes disqualified. Unless a group is recognised as an entity, this joining any other party is just not possible. That is the point in issue. It is not question that the Member applies and the Minister says and the Speaker's decision is pending. All the authority of the Chair is being abrogated by the Government. We have serious objection to this procedure because it is the authority of the Chair that is being eroded and the matter is pending and that decision is being made by the Government. This is certainly not acceptable. (*Interruptions*).

He can come to this seat! This is vacant.

THE MINISTER OF STATE OF THE MINISTRY OF COAL (SHRI AJIT PANJA): Do you want to be here? Do you want BJP to be here? (*Interruptions*)

MR. CHAIRMAN: When I have given the ruling, there is no further discussion please.

(*Interruptions*)

[*Translation*]

SHRI NITISH KUMAR: Mr. Chairman,

Sir, a point of order has been raised regarding the 10th Schedule of the Rule. No decision in this regard has been taken by the Chair. Why does he speak from there? He may speak from seat No. 1. Nobody will have any objection. The point of order has been raised under the 10th Schedule. The Chair should give its ruling on it. the hon. Minister of parliamentary Affairs has also conceded to it.

(*English*)

MR. CHAIRMAN: That is to be decided by the Speaker. In the House, there cannot be a discussion on this.

(*Translation*)

SHRI NITISH KUMAR: Mr. Chairman, sir, it means that the said point of order would be kept pending.

(*English*)

MR. CHAIRMAN: No discussion in the House on this. These issues, you can take up with the Speaker.

[*Translation*]]

SHRI DEVENDRA PRASAD: Mr. Chairman, Sir, the decision is still under consideration.

[*English*]

MR. CHAIRMAN: You take up that issue with the Speaker. This cannot be decided in the midst of discussion.

[*Translation*]

SHRI ANNA JOSHI (Pune): Mr. Chairman, Sir, I would like to make a good suggestion for the benefit the House. (*Interruptions*).

[English]

MR. CHAIRMAN: Have you got any point of order?

SHRI ANNA JOSHI: Regarding the conduct of the House, I am helping you.

[Translation]

If he wants to speak, let him speak from here.

(English)

MR. CHAIRMAN: Do not take the time of the Hosue, when you have no point or order, please.

(Interruptions)

[Translation]

SHRI RAM LAKHAN SINGH YADAV(Arrah): Mr. Chairman, Sir, I was thinking that this matter would be taken up for discussion in the next week. But it has been taken up in this week for which I would like to thank Shri Ram Vilas Paswan. He made efforts to raise it here and I also supported him. I would not like to go into any statistics or technicalities. I would like to say roughly as a social worker that the question which has been raised by my colleagues today, was raised by me when they had not even entered into politics. I have been fighting for this social cause since those days. I remember, it was in 1947 when Ansari Saheb, Mansoor Saheb and Bhola Paswan took up this struggle not only in Madhya Pradesh but everywhere. Thereafter, I have been fighting throughout my life for this as a social cause. Wherever I may be, I suggest that this issue should be treated above party politics and taken accordingly. It will be in the country's interest. It would be better if we view it from the Constitutional angle.

Sir, I have seen those days. If I make any mistake, my elder colleagues should forgive me and correct me, I will accept it. But who can make the claim that he launched the reservation issue in the country?.

So I would like to say that the first amendment in the Constitution of India was made by the Congress party in 1951 when Pt. Jawahar Lal Nehru was the P.M. (Interruptions) The sub-clause (4) of Article 4 states that there are several castes and tribes, other than the SCs/STs, which need reservation. The famous socialist leder Shyama Prasad had warned that social criteria for reservation would break the country so it should be on economic basis. Congress itself has implemented it. You can study the manifestoes of the Congress party since 1937. I am not praising the party but telling a historical fact.....(Interruptions)..The Congress has promised to help the backward classes. What have you done? Have you seen your party manifesto? You have deceived the people by not implementing the promises made in your manifesto. In the manifesto of 1977, you had promised to provide reservation if your Government was formed. But when you attained power, after a great deal of persuasion, you constituted Mandal Commission but your party was divided on these issues...(Interruptions) You can go through the speeches of Indiraji on reservation for backwards. Your party had made promises to provide reservation but did nothing in this regard while the Congress made no promise and it has done enough in this sphere. (Interruptions) I have faith in Shri Narsimha Rao we all knew him since long. Blease ask yourself honestly, also how much you praise him. I have no intention to speak in favour of or against any party, but it is an issue which requires consensus of all the political parties. Everyone has supported High Court's decision in this regard, but the Supreme Court has decided that it is a constitutional matter. In this context, I would

[Sh. Ram Lakhan Singh Yadav]

like to suggest that we should not repeat the mistakes committed our ancestors? I do not want to allege anyone. Our ancestors created 'Varna-Vyavastha' for the smooth running of society. With the increase in population, the 'Varna Vyavastha' has created various castes and sub-castes in the society and we are facing the ill-effects of this caste system. The Congress alone cannot be held responsible for this problem. Some political parties are making this issue as their main objective for their political advantage. We should not do politics on such an important matter and we should gain the faith of people on this issue.

You are providing 12 per cent reservation for backward classes and 8 per cent for the moust backward classes. The rich section...*(Interruptions)* At that time I had told Karpooriji that it should be 20 per cent.

The whole country was under turmoil when Shri V.P. Singh announced the decision of implementing the recommendations of Mandal Commission. Even today this issue is being discussed outside the Parliament. It should be discussed seriously by all the parties. *(Interruptions)*. In such a situation 15 per cent people will hold imkportant posts in administration and 85 per cent will look at the Government for opportunity. I would like to remind the Congress people the Congress party had made this a main plank during the freedom struggle....*(Interruptions)*.

SHRI VISHWANATH PRATAP SINGH:  
Please first of all make Rajesh Pilot as Cabinet Minister....*(Interruptions)*.

SHRI RAM LAKHAN SINGH YADAV: I was saying that Congress party had made three main issues on the occasion of flag hoisting ceremony on 26 January and we all took pledge to continue the struggle for completex freedom. At last, we got freedom

but the freedom means the political, social economic freedom. We got the political freedom but we are struggling continuously for social freedom. We have various religions in the country and people from all religions had participated in the freedom struggle but this struggle for social freedom is more difficult. All the sections of society and political parties have to think collectively on this issue. People have faith on the decisions of the Congress Party. It has abolished the ceiling and 'Zamindari' system but I would like to say that you have to convince the 70 per cent people too who are born after 1942. I therefore would like to submit that you should take decision on this issue in view of our needs.

I hope that the Congress will implement this in the same way as it has already effectively implemented so many other things for the welfare of society. The Congress makes promises and it keeps them too; but you people never keep your promises. The Congress follows the principle of doing than saying. Country will never forget the work done by the Congress. I know the compulsions before the opposition, I have a great regard for Shri Kesriji and I have been discussing the things with him as well as with my own colleagues in this regard and decided to meet the hon. Prime Minister Narsimha Rao ji. I told the opposition parties we all should convince the Prime Minister to accept the decision of the Supreme Court. But you have said that we will not beg; rather we will fight for it. I am thankful to Narsimha Rao ji for working in this field. But under pressure from various sectors, you had said that it would not be implemented on such and such jobs and services and as a result of it, this more suffered a great set-back.

SHRI RAM VILAS PASWAN: We have never said that. We had said that in all the places the reservation for backward classes should be very much similar to the reservation available for SCs/STs.

SHRI RAM LAKHAN SINGH YADAV: I have already said that if I commit a mistake, I will admit that.

SHRI RAM VILAS PASWAN: He has admitted that I have correctly said that the bakward castes should be given the same type of reservation facilities in all the places, in the same manner as is available for SCs/STs.

SHRI RAM LAKHAN SINGH YADAV: I would not like to say anything on the decision of Supreme Court. The Government should take decision on this issue and rectify all these mistakes. I am happy that Narsimha Raoji is our Prime Minister. (Interruptions) Welfare Minister Shri Sitaram Keshri's proposal has become a law today. Sharad Pawarji has also taken some steps in this regard in this regard in Maharashtra. So I would like to say that it should be implemented everywhere.

I would like to point out that the Congress has introduced two amendments in this Bill for giving preference to the poor. I consider it correct that the poor among SCs/STs should be given preference. If my son and the son of my servant both apply for a single post, the preference should be given to the son of my servant. Then it would be right step towards social justice. We all want that preference should be given to the poor. I will be happy if the Government decides to implement it. I would like to say that deserving people should be given preference. I would like to say that without any discrimination, the Government should give priority to all the deserving persons from backward classes. You can even give our share to them. (Interruptions).

MR. CHAIRMAN: Time allotted for you is over now.

(Interruptions)

SHRI RAM LAKHAN SINGH YADAV:

We should be given reservation. I would like to say that Ram Vilas Paswanji has laid the foundation of it; upper caste... (Interruptions)... It has been raised from 7 to 10. I would like to tell the people from the congress party and the Government that they have constituted an expert committee; and the Section 18 of it should be deleted... (Interruptions)... I belong to the peasant class. You are trying to abolish the farmers from the society. Farmers in our Society are in the largest number. Farmers have 10 to 15 acres of land. I would like to say... (Interruptions) that there is no objection if the section 18 is deleted from the Bill. I would like to thank you... (Interruptions)... I am still speaking.... (Interruptions).

[English]

SHRI ANIL BASU (Arambagh): Sir, I am on a point of order. On the T.V. screen, it was displayed that Shri Ram Lakan Singh Yadav belongs to J.D. It has been displayed like that. so, he should sit on this side of the House. He is speaking from the Treasury Benches. I want a ruling from you on that.

(Interruptions)

MR. CHAIRMAN: Shri Yadav, please conclude. That is enough, you may now please sit down....

(Interruptions)

[Translations]

SHRI RAM LAKHAN SINGH YADAV: Please don't be impatient; we can discuss it with them. It is our own issue but why are you interfering? (Interruptions)... We all live and work together; why are you interfering? (Interruptions)

[English]

SHRI ANIL BASU: How it has been displayed on the T.V. that he belongs to J.D.? It has been displayed that he belongs to J.D. What is your ruling about it?

PROF. SUSANTA CHAKRABORTY (Howrah): It has been displayed outside on the T.V. that he belongs to J.D. How is he speaking from that side of the House? (Interruptions)

MR. CHAIRMAN: Shri Yadav, please sit Down now. do not record anything further.

[Translation]

SHRI RAM LAKHAN SINGH YADAV: I thank you for giving me an opportunity to speak now conclude...

SHRI PREM CHAND RAM (Nawada): Mr. Chairman, Sir, I would like to thank Shri Ram Vilas Paswan for his initiating a discussion on such an important matter in the House. This is an important issue and it should be taken seriously. In this regard a meticulous decision should be taken lest the weaker section of the society which has been neglected for centuries, may continue to remain neglected for ever. All the previous Governments have worked for the upliftment of the neglected and for the improvement of their social and educational status. I would like to thank the previous Government which remained in power for a very short period, but raised such an important issue for which the country can call itself a welfare state. He is sitting here. Despite taking birth in a royal family, when he got an opportunity to enjoy royal status, he struggled for the interests of the poor and backward people in his short tenure of 11 months in power and sacrificed the highest post he held, for them.

Sir, the poor and the backward people of this country work and other people enjoy

on their sweat and blood. In this country, the person who weaves cloth, has no clothes to wear, the person who cultivates land has no food to eat the person who digs wells lays water pipeline and make all arrangement for water supply, has no water supply in his house. Sir, just now, our senior leaders were saying that the leaders of the Congress Party did a lot for the country, Certainly they have done a lot for the country which other people failed to do. They said one thing and did the opposite. They said that they would bring socialism in the country. What could be the meaning of socialism for them? The meaning of socialism is very wider for the neglected, the backwards and the dalits. In socialism the majority in the society enjoys power and in our country the farmers and labourers which form the majority are far away from the seat of power. So, there is difference between words and deed of the Congress party. Even then they say that they did a lot for the country. They are very concerned for the dismal performance of the economy of the country. So they are inviting multinational companies to improve the economy by retrenching the poor workers from their jobs. They will bring socialism in the country by retrenching employees in Railways, by retrenching waiters and third and fourth class employees and improve the economy of the country. They will keep motor-cars and own bungolows and will use diesel as fuel and burn diesel, They will burn the country in this way and will say that they are improving the economy of the country. The question is as to what justice can be expected from them? It is impossible to get justice from them Justice is a great word. But the persons who are themselves not just, how can they do justice to others. These people can never talk of justice and equality. If you have to witness equality and justice, go to West Bengal, where the State Government talks of centre-state relations and wants to strengthen it. One party and one Chief Minister is in power there for the last 16 years. A few days back, the Chief Minister of

the State congratulated Shri Narasimha Rao on his completion of two years in office and Shri Narasimha Rao congratulated him on the former's completion of 16 years in power. What is the basic difference? The reason behind it is that they worked for backward sections of the society. It is a matter of surprise that there are 52 Members in the Legislative Assembly of the State. Who belong to backward classes, SC and ST community and are elected from general seats. Here, a person belonging to a backward class cannot be elected from a general seat because the Government has not done any work. Due to this, no one wants to be known as belonging to Scheduled Castes.

Mr. Chairman, Sir, today we are discussing here an important issue but there is no solution. It is a small solution of the issue like a drowning man catching a straw. A man was drowning in the sea, he got a straw and thought that he had found a great support. This policy of reservation is also like that straw. Today, all people are depending on the hard working poor people who will oil and rich people will enjoy it. Shri V.P. Singh Government thought of giving some rights to these hardworking people but now this Government is either deviating from it or moving the Supreme Court. We are not against the creamy layer committee but the Government must have will power to implement it. The Central Government should immediately provide 27 per cent reservation to the backward classes in jobs and implement it immediately. On behalf of my party, I would like to say that we have a right to take decision on poor people. We have divided the society into four 'varnas', namely, Brahmin, Kshatriya, Vaishya and shudra. Just now Shri Ram Laxhan was saying that he is also a farmer and a farmer falls under the category of Vaishya. Vaishyas figure third in the caste system and serve people but what is the position of the 'Shudras' who figure at fourth place. Poor washerman, skinner and barber are called Shudras who serve people all.

The washerman washes our dirty clothes. People make long speeches in India. They drink cow-milk and make the bullock pull the plough but if a buffalo dies, they don't cremate themselves. It is the job of the skinner, But if he enters their house, they will become untouchable. This is the caste system in our country which has divided the society. Even, they have divided the body into four parts. If a thorn pinches the foot, the whole body pains. Similarly, if one caste suffers all the four castes, Brahmin, Kshatriya, Vaishya and Shudra also suffer. It is the law of the nature. How long can we oppose it? I would like to urge the Government to clarify its intentions before implementing this policy. We swear in the name of the Constitution and honour it. We honour the nation and we are nationalists. When the Constitution was being framed, the right to property was made a fundamental right. We will also give right against exploitation and right to property to the people. When property is not the root cause of exploitation, socialisation of property could take place. There are big land lords in Purnea, Darbhanga and in North Bihar. There is 6-7 feet long grass in their fields which they like very much. Instead of foodgrains, they grow grass and give their land on crop-sharing. This is the socialism and policy of this Government. This Government enacted Land Ceiling Act. Is this Government implementing it strictly? The Government had framed a law that Government land will be distributed among the poor people. Is the Government implementing that law and the Land Reform Act strictly? I would like to request Shri Ram Vilas Paswan that we will support him outside as well when we make demands for weaker sections and will also expose the wrong economic policies of the Government. Unless the basic fabric is changed, the society cannot change. The Government should clarify its intentions before framing any policy. If its intentions are clear each and every article of the Constitution will be implemented in the society. With these words I support this Motion.



SHRI VIJOY KUMAR YADAV (Nalanda): Mr. Chairman, Sir, the issue of our present discussion is related to the analysis of creamy layer as explained by the expert committee. In my opinion the present discussion on creamy layer has been done in violation of the provisions laid down in the Constitution. The recommendations of Mandal Commission were prepared on the basis of social and educational backwardness that have been referred to in the Constitution. That was the criterion of Mandal Ji. Even during the survey conducted throughout the country, making the provision of reservation, economic status was very much made the criterion, but it was placed below in priority composed to criteria of education. That was because they had to act according to the spirit of the Constitution in regard to social and educational backwardness.

Shri Ram Lakhan ji has left the House. He was speaking at lengths on the issue of reservation. I remember that Ram Lakhan ji was the member of the Congress party at that time when policy in regard to reservation was pronounced by the V.P. Singh Government. That time he was vocal enough in support of the reservation policy pronounced by Janata Dal Government. Now he wants to give the credit to the Congress party only because he has rejoined the Congress Party. I have seen the neglectful attitude of the Government on the issue of reservation, be it the Government of Pandit Jawahar Lal Nehru or of Smt. Indira Gandhi or even of Rajiv Gandhi. I was not a Member of this House during the Prime Ministership of Pandit Jawahar Lal Nehru; but I was here as a Member of Parliament during the tenure of Indira Ji and Rajiv Ji. I have seen how they adopted the policy of avoiding the issue of reservation. Here is paswan ji and a few more persons like him who have ever been raising the voice in the House in favour of this issue. This issue is constantly being raised in every session by Paswan ji and some other Members and under great compulsion, the

report of Mandal Commission was placed on the floor of the House and there was a subsequent discussion thereon. What is there for you to take credit of it? You could introduce the recommendations of Mandal Commission. Prior to that a number of Commissions were set up in this regard and they all submitted their reports too, but the earlier Governments relegated the issue into background. When Shri V.P. Singh announced to implement the report of Mandal Commission, a bloody situation was created throughout the country. Disharmony was created in the Society. Law and order was disturbed throughout the country in the name of backward and forward

Those who were responsible for all these things are now seeking to take credit of it. I do not know how for it is proper for them. The members of the Expert Committee who have submitted their report have also considered this point as to how the creamy layer could be defined. I would like to emphasise the point that when there is a mention that the said review has been made on the basis of experience then why this question is still unresolved. Moreover, Kesriji who is a staunch supporter of reservation policy, also approve this idea. This is simply because he belongs to that category; but the lobby of a particular set of people placed on higher positions do not let him work according to his wishes. Therefore, the definition of creamy layer given by the Expert Committee is dangerous. An hon. Member of B.J.P. was also just now speaking in this term telling how dangerous it is.

We have the experience of reservation policy in regard to SCs /STs. They are not getting full benefits. Candidates are not available among the people belonging to the most Backward Classes, because they do not get education. You argue that it should first be ascertained whether such candidates are available or not, and in case they are not available, they vacant posts

should be filled by other backward class people. Everybody is aware of this fact, and there is, therefore, hardly any need to go for investigation. There is no need to waste time on it anymore. You want to avoid the issue for further 10 years: it is not at all proper. You should put an end to this practice of avoiding the issue. So, there should be an immediate review in this regard.

It is not necessary that those who have become economically sound have also become socially forward. Although they might have earned money, yet they can never compete with already economically affluent persons. It takes time and that is why the provision has been made to review it after every 10 years. Meanwhile, if with the help of reservation they are able to compete with those who are socially, educationally and economically forward, then only they can be excluded. In addition to that, the poors among the forwards were to be provided reservation and there was no dispute among the political parties over this issue, but the Supreme Court turned this proposal down as per the existing provisions of the Constitution. Now it is the duty of the Congress Government to make a provision of 5% reservation for the economically poor people among the forward classes. Therefore, the recommendations of the Mandal Commission which are based on the criteria of social and educational backwardness should be followed in their true spirit and on the same basis, the matter of locating creamy layer should be put to an end. Now it has totally been based on economic criterion which reflects the policy of the Congress Party. I oppose the present policy and I would suggest that a meeting of Members of Parliament may be convened in case there is any problem on the issue of creamy layer. The recommendations of the Mandal Commission should be implemented in their true spirit.

[English]

SHRI SUDHIR SAWANT (Rajpur):  
Madam Chairman, today we are all in agreement that the topic under discussion is of vital national importance because it is addressing to an issue which is not current in its being, but which has got a historical relevance. And precisely for that reason, we must first take a look at the constitutional provision that already exists. This constitutional provision has made a classification or discrimination. The necessity for this discrimination is recognised by the Constitution. It has great significance because according to Article 14 of the Constitution, it is very clear that there should be equality in all spheres, equal opportunity before law, equal protection before law and so on. These are some of the provisions which are guaranteed to the citizen of this country. But at the same time, our Constitution recognised the need for having a classification or discrimination. This need is on two factors. One is that there should be intelligible differential. And the second is that this discrimination or classification should have a direct bearing on or nexus with the object of the Constitution. These are the factors to which we must address ourselves. So, if we see these two things, what is the intelligible differential? We have to see how we are going to classify them/whether caste can be a differential, whether class can be a differential or whether religious denomination can be a differential. I don't think the Constitution has given us the power to recognise or classify people into some groupings. However, the most important criterion for any classification is that people who are put in one particular group should have the same circumstances and similar situation and this is where we have to address ourselves while deciding about the creamy layer. When we are going to have reservation, it should be based on the intelligible differential. Classification should necessarily

mean that we are going to make provisions for those who are being discriminated against others but here we should take care that they all should have shared similar circumstances. We will have to determine whether members of a particular caste are placed in one group.

Before I go further on this issue, I would like to say that I wholeheartedly support the provisions of the Mandal Commission. It is indeed a step in the right direction because it seeks to classify people on the basis of intelligible differential which would have a nexus with the provisions and objects of the statute.

17.00 hrs.

Similar circumstances would necessarily mean social backwardness and economic factor involved in the classification. So, what do we do about the economic factor? I want to know whether economic factor has no relevance at all or whether it has some relevance or whether it should be the basis of relevance or whether it should be the basis of any Statute or any classification. This is essentially what you will have to determine. Even the other esteemed Leaders and Members of this House have voiced their opinions. I would see that when coming to classification, the economic factor must be given its due weightage. It should form, probably, as the foundation of classifying people.

There is another argument which is being put forward by anti-reservationists or those who are against the Mandal Commission's recommendations and that is 'merit'. We must understand 'what is through merit? When we want officials in Government service, we want not only officials who are very intelligent but also officials who have social commitment, who have got stakes in the development of society, in the

development of the nation and in the development of people. I want to know we will judge his true merit at that point in time when he sits for the written examination for IAS. (interruptions).

SHRI DILEEP BHAI SANGHANI (Amreli): Mr. Speaker, Sir, the hon. Minister was Sheduled to make a statement is this regard at 5 O'clock today. It is now over 5 O'clock but the hon. Minister has not come here so far..

[English]

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF YOUTH AFFAIRS AND SPORTS) AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI MUKUL WASNIK): Shri. I have just been informed that the Minister will be coming here at 5.45 p.m.

MR. SPEAKER: You might have been informed; the House was not informed. I should also have been informed.

(interruptions)

SHRI JASWANT SINGH (Chittorgarh): Mr. Speaker, Sir, we were informed that the Government was going to make a statement on a very important subject. I recollect very well that my senior Leader in fact then got up and said that he would like to know why it is to be at 5 o'clock and why cannot it be earlier. Then, the Minister of Parliamentary Affairs said that they would consider this entire matter and they would come forward at 5 o'clock. There are two or three aspects of Parliamentary concern that are involved. Having given time at 5 o'clock, if the time is to be changed, the least that we would expect as courtesy from the Minister of Parliamentary Affairs or the Treasury Benches is leave alone informing us that at

least, you would have been informed. I do not know whether they have informed you in time and have sought your consent that instead of 5 o'clock, it is to be at 5.45 p.m. Sir, the casual manner in which the Government has changed the time or has not come forward with the statement which was slated at 5 o'clock is certainly not acceptable to me or to any of us here.

Secondly, you had yourself done it and you had earlier taken a very fine, a very noble and a commendable initiative in persuading the entire leadership of the House to sit with the leadership of the government to try and find a solution to really a major issue that had arisen. I know, Sir, that my senior leader Shri Atal Behari Vajpayee said "if necessary, consult us, before you come at 5 o'clock with a statement". No consultation has taken place. The time, viz, 5 o'clock, was fixed by the Government. That change has not been communicated even to you, Sir, leave alone to us. I think for the Government to treat it so casually is certainly not acceptable to us.

SHRI CHANDRA JEET YADAV (Azamgarh): Sir, we take a very strong exception to this. This is a very sensitive issue. It is an important issue. We all have adjusted our time to be present here. We have considered this issue within our Party within our front and everywhere because, the whole country is waiting to know the situation. The whole thing is analysed. The entire country is looking at this serious issue.

This is our apprehension that the Government is not taking it seriously. This is a very casual way of dealing with the House. Therefore, I take a very strong exception to this. I would request your intervention.

SHRI NIRMAL KANTI CHATTERJEE (DUMDUM): If the Government is not coming out with a statement, let the House be

adjourned till 5.45 p.m. (Interruptions).

SHRI BASUDEB ACHARIA (Bankura): You adjourn the House (Interruptions).

[Translation]

SHRI RAM VILAS PASWAN (Rosera): On this issue you made an endeavour to resolve the crisis facing the leaders of various political parties and the country. We always doubt the intention of the Government. They are blackmailing the country. The country is facing such a great crisis and they are taking it very lightly.

[English]

SHRI MUKUL WASHNIK: It was never the intention of the Government to delay this. Unfortunately, it is in the process of translation of the statement that it has taken a little longer time. Unfortunately, it is in this process that it has got delayed and it has hurt the feelings of the Members of the House. (Interruptions):

SHRI ANIL BASU (Arambagh): He has not informed the Speaker. (Interruptions).

SHRI MUKUL WASNIK: I am sorry, because of this delay, we were not in a position to inform you or the House in time about the delay. But, there was absolutely no intention to hurt the feelings of the hon. Members.

[Translation]

MR. SPEAKER: Please take your seat. Let me hear him.

[English]

The least I expected that you would inform me. I don't think that we should adjourn the House because the subject which we are discussing is equally important. (Interruptions).

SHRI SOMNATH CHATTERJEE  
(Bolphur): Let this debate continue.

SHRI SUDHIR SAWANT: It is very unfortunate that there should be such an intervention in the course of somebody's speech. But, anyhow, I think, that has become a practice. (*Interruptions*).

[*Translation*]

SHRI RAJVEER SINGH (Aonla): Mr. Speaker, Sir, he has said a very objectionable. I did not make any intervention during his speech.

17.09 hrs.

#### DISCUSSION UNDER RULE 193

SOCIO-ECONOMIC CRITERIA FOR  
EXCLUSION OF "CREAMY LAYER"  
FROM "OTHER BACKWARD CLASSES".  
*CONTD.*

(*English*)

MR. SPEAKER: You can start speaking again.

[*English*]

SHRI SUDHIR SAWANT: It is a personal obligation because it has affected me as an individual Member.

I was on the concept of true merit, because this, I feel, must be understood because it affects the entire issue. At what point of time should we judge the merit? At the point of time when he is appearing for a written examination or at the point of time when a candidate is undergoing training or at the point of time when he is in service, when he is exposed to the entire environment, entire situation? At that point of time should the true merit be decided?

I would beg to lay before the House my personal experience in this regard. I have to point out about the selection. We have seen in the Armed Forces a candidate is having 115 the merit.

The same person, during the course of training, may be at No. 115 on merit, but after five years of service he overshoot the Sword of Honour because he is given the opportunity, he is given the equipment, he is given the wherewithal to compete and thereby display what is merit.

Mr. Speaker Sir, I want this particular fact to be noted that it is dangerous and discriminatory in nature to accept merit at the point of time of entrance examination. We should do away with this concept because the basic requirement in Government service is not only intelligence, not only how fluently one speaks English or answers the question but the factor of social commitment, the commitment to the people and the commitment to the country.

Then I have found that in the armed forces, especially the people who have come from the humble background have become the most patriotic and efficient officers in the Indian Army because they were given the opportunity. So when we deal with the factor of merit we must now go back and relate it to the classification which we intend to do. We must ensure one factor that at the time of entrance examination all the candidates who appear before the Board must be given equal opportunity and equal status in life. It must be related to the status of individual in life, the opportunity and environment under which he has developed his capability depending on the circumstances in the type of school one has gone. We cannot expect a candidate from Doon School and a candidate who has studied in a rural school to ever compete at the point of time of examination. But that does not depend on caste only.

Of course, there is a factor of social backwardness, which must be gone into when thinking about classification, but it is the economic status which becomes vital. I do not expect an IAS Officer's son, whichever caste he may belong to, placed under the equal circumstances of the son of a farmer, a peasant, a worker in the rural area. This is what we must avoid because it has come now upon us to decide on this very factor. That is why the economic criteria must be given primacy over all criteria and social backwardness must be added on to it. The primacy must be given to the economic backwardness.

So the fact is that economic criteria, when it comes in classification, must be given the primacy and other factors related to then. That is how we must go on to derive the classification and that is how we must address ourselves to the creamy layer issue. That is how we must harmonise our statutory regulations and laws along with the provisions of the Constitution.

The very fact, the requirement of classification, the intelligence differentia we must go on and categorise those people into a group and go in for reservation on the lines of Mandal Commission. It is in the sense that those amount of reservation and percentages, depending on the caste factor alone must be ensured according, at least if not totally, but to the percentage of population in this country.

The second factor is when we go on to bring the candidates to the written examination, we must ensure that the economic status and the environment under which a candidate has come, be brought on to one place and his potential determined in that manner.

Then only, I think, we will do justice in the long run. And that is how, we can address this issue. We have to address this issue not

only on social backwardness but also on economic backwardness.

[Translation]

SHRI SURYA NARAYAN YADAV (Sahasra): Mr. Speaker, Sir, many Members were expressing their views on Mandal Commission and especially Shri Ram Lakhan Singh Yadav was making a mention of it.

In 1951, Pandit Jawahar Lal Nehru added this point in the Constitution, I agree that while framing the Constitution, Dr. Bhimrao Ambedkar and other makers of the Constitution made a great mistake by providing reservation to Scheduled Castes and Scheduled Tribes only and neglecting the backward classes. Due to lack of representation in the political field, the backward classes were subjected to exploitation for 45 years and the trend continued.

I am grateful to Shri Vishwanath Pratap Singh from the core of my heart that during elections he had made a promise in this regard in his manifesto and after forming the Government, he made an announcement about the Mandal Commission in this very august House. At that time, you were the hon. Deputy Speaker and Shri Rabi Ray was the hon. Speaker. When an announcement was made to this effect, Our hon. leader, later Rajiv ji, who is not here, with us at the moment, had spoken for three hours at a stretch that time and had drunk 11 glasses of water during his speech. When Shri Advaniji rose to speak, he was trembling like anything. The hon. Members, who were here during 1989 had witnessed all this. When the recommendations of the Mandal Commission were implemented, he took out the 'Kamandal Rath'. We admit that the Mandal Commission is such a force which shook off the whole country, but Shri Vishwanath Pratap Singh had used such a great weapon which could not be checked by our hon. friends from the

Congress Party.

Neither they nor the Kamandal had the strength to check it. It will continue to become stronger and stronger.

Today, they are thinking about the economic and social status of the people. The children of Dalits and backward classes, living in the villages have not been provided schools in the villages. They lack proper buildings chairs for the teachers and other basic facilities. Then we ask these school children to compete with the students of Delhi schools. What is economic prosperity? Most of the hon. Members are farmers. A farmer who ploughs 30, 40 or 50 Bighas of land, I can claim, cannot provide food and clothes to his family for the whole year. On the other hand a housemaid who works in Delhi can afford all this.

MR. SPEAKER: Mr. Yadav, tell us what we have to do about the creamy layer. It will satisfy all.

SHRI SURYA NARAYAN YADAV: Sir, you were not on the Chair when this matter was being discussed here. That is why I had to speak; otherwise, I would not have spoken. I can understand what you want and am coming to that.

Sir, because you intervene, I cannot utter even a single word. I will take just 2-3 minutes time.

MR. SPEAKER: I will give you time as much as you want.

SHRISURYANARAYAN YADAV: I want to tell the people who talk of the creamy layer about the plight of the farmers. It is said that farmers having 10 acres or 15 acres land should not be given benefit of the recommendations of the Mandal

Commission. I want to submit that the farmer has not been provided water for irrigation, land ceiling was not done as a result of which the land was divided into small plots. It is not possible to plough these small plots of land and one does not get good yield from these fields. Apart from this, drought and floods are also responsible for the destruction of the crops. Why does the Government want to ruin them? It claims that its intentions are good and it wants to implement it. Hon. Members of the B.J.P. were saying that they intended to implement it. Hon. Members belonging to the Congress party also want to implement it and so do we. When the whole House wants to implement it then what is the hitch? Therefore, I submit that we should not make it a criterion to decide the condition of a farmer on the basis of his land because everyone knows who are the real owners of land. The land purchased by the poor farmers from the landlords should not also be taken into consideration for this purpose. Not to speak of financial condition, our people cannot come on merit. There are hardly one or two percent IAS and IPS officers from amongst us. When we go to the Secretariate, we get ashamed of the fact that we have been born in this class. There is not a single officer with whom we can have some confidential talk. Even then, you are trying to stop it. They have been enjoying the opulence for the last 40-50 years. Now let us come forward. Shri Ram Vilas Ji has rightly said that if the Government tries to stop them there will be an explosion. When there was a proposal to implement the recommendations of the Mandal Commission, incidents of self-immolation took place in public places. Now again they are trying to stop it by fixing the same criterion. We are not ready to accept it. I would humbly like to submit that they should provide relief to the farmers. If their children want to rise by studying in a particular school, then, Kesri ji, you should not stop this criterion. You should leave this policy. Let both of them compete with each other and whosoever wins he will

get it. You have rightly put a check on the recommendations of the Mandal Commission on the economic basis and also stopped promotions of Scheduled Castes and Scheduled Tribes. You made a haste in that but taking more time implementing it. Therefore, we can well understand your compulsions but the nation is not taking it that way. Shri v.P. Singh ji wanted to implement the recommendations of Mandal Commission. You also supported this idea but you did not implement it honestly. It is certainly going to harm you as well as the Congress Party.

With these words, I request you not to fix any criterion. You should allow 27 per cent reservation as envisaged by the Mandal Commission. When this quota is completed, this system will close on its own. We do not have any grievances in this regard. With these words I conclude.

SHRI DATTATRAYA BANDARU (Secunderabad): Sir, no party including Bharatiya Janata Party is against this 27 per cent reservation. There are backward people particularly in Scheduled Castes and Scheduled Tribes who are getting reservation due to the efforts of Dr. Ambedkar. As per the reports of SC and ST Committee and other committees even today, the norms of reservation are not being implemented properly. That is why they have not yet got their dues.

Sir, the Mandal Commission has recommended reservation for the backward classes. In many southern States, reservation benefits are already being given to the 'backwards but in northern States backwards are not getting any reservation. There are 52 per cent backwards in India and for them, only 27 per cent reservation has been given. The Supreme Court has asked the Government to decide about the Mandal Commission within four months. But it appears from the present policy of the

Government that there are some vested interests within the Government who are creating hurdles in this regard and that is why reservation benefits are not being provided even after the lapse of six months time.

Sir, as one Congress Member was saying just now that the backward people are coming forward in our society but what actually is happening in rural areas is that in spite of the economic development, they are not being allowed to sit together and have meal with higher castes. The backward people are not getting reservation according to their population percentage. Injustice is being done to them and it should not be done. The main reason behind the Chandur incident was that they are harijans and are socially weak and that is why they are being attacked. The question of creamy layer has created suspicion in the minds of backward classes whether they would get the benefits of reservation or not. There is no social harmony without development and mutual trust among the people. The Children of rich people are studying in public schools whereas in rural areas, there is no proper schooling arrangement for the poor. Then how they would compete with them? All should get equal rights and opportunities but today they are being exploited in the name of equality. Today rural people do not know anything about T.V. but in urban areas it is available everywhere. In this way how they can get equal opportunities. Due to this creamy layer, they are not going to have equal opportunities. No reservation has been provided in the posts of grade I and grade II. Therefore, I would like to say that there should be a reconsideration on it. Passing such resolution will not serve any purpose. What is the use of creamy layer when justice has not been done to the backward classes? We wish that the benefits of reservation should reach the poor but so many conditions have been laid down with it that justice cannot be done with them. If the people do not get justice, they will



[Sh. Dattaraya Bandaru]

not remain silent and they would resort to agitation. Every one should get equal opportunities. For this purpose, I would like to request the Government to provide separate schools for backward classes so that they may get equal opportunities to rise and compete with others. It is being said that Finance Commission is creating hurdles in it. We have seen in Andhra Pradesh that whenever equal opportunities were given to the backward classes, they achieved greater success.

[English]

They all stood first class in Andhra Pradesh in Adarsh Pathshala. But the Government policy is that allocation of budget to Adarsh Pathshala is every meagre.

[Translation]

Therefore, separate arrangement for the education should be made for the upliftment of the backward people.

I also would like to draw the attention of the government towards fake certificates. We have seen in Andhra Pradesh that people are taking benefits by obtaining fake certificates. Such things would also lead to the harassment of the backward classes. The government have to think over it seriously. Till now no concrete steps have been taken to check this malpractice.

Sir, one more thing I would like to say that the Government should find a way out to remove the spreading ill-will over the reservation issue. There is need to give wide publicity to counter propoganda against reservation. Instead of 52 per cent, they are being given 27 per cent reservation and even then, propoganda is being made against it which is creating ill-will among the general public. so it should be checked.

One more point I would like to submit on behalf of my party and on behalf of myself that the reservation issue should not be taken as vote bank. Till now, we have been witnessing in our country that the reservation issue is being raised for creating vote banks.

[English]

We are only seeing minorities from the point of view of vote banks.

[Translation]

If it is viewed from the point of creating vote banks and not implemented properly, that would be very bad for the country. All classes should be treated equally. There should be reconsideration on the creamy layer without any further delay because it has already been over delayed. Great injustice is being done to the backward classes by this delay. Mandal Commission's benefits should be given to them. They should also be given reservation in educational institutions. When you are in opposition, you say one thing and when you are a ruling party, you talk something different. I would like to say that we all should rise above the party politics on the matter of such social reconstruction.

SHRI UDAY PRATAP SINGH (Mainpuri): Sir, the name of U.P. Singh should come before Shri v.P. Singh. I would speak sweet.

MR. SPEAKER: Sweet thing should come in the last. All right, please speak.

(Interruptions)

SHRI UDAY PRATAP SINGH: Mr. Speaker, Sir, I thank you for allowing me to speak. I have promised to speak sweet. I would like to read a poem for Shri Kesri, Shri Vajpayeeji and a other hon. Members:

Agaro Baharain Patjhar Jaisa rupa Bana  
Upvan Main Aye,

Mali Tumhi Phaisala Kar Do, Hum Kisko  
Doshi Thahrayan.

Vataavaran Aaj Upvan Ka Kadvahat Se  
Bhara Hua Hai,

Kaliyan Hai Bhaybhit Phul Se Phul Shool  
Se Dara Hua Hai.

Socho, To Kya Kaaran Hai, Dil Dil Ke  
Najdeek Nahin Hai,

Jivan Ki Suvidhaon Ka Batuara Shayad  
Thik Nahin Hai. Upvan Man Yadi Bina Kbile  
Hi Kaliyan Murjhane Lag Jaayen Mali Tumhi  
Phaisala Kar Do Hum Kisko Doshi Tharayain.

I am talking of the reason, now I talk  
about creamy layer.

Yah Apani Apani Kismati Hai, Kuch  
Kaliyan Khilti Hain Upar,

Aur Dusari Murjha Jati Hai Jhuke-Jhuke  
Jivan Bhar Bhoo Par,

Mana Badkismati Hai, Lekin Kya Ye  
Mahak Nahin Sakati Hain,

Agar Mile Avsar Angaron si kya Dahak  
Nahin Sakti Hain.

Dhup, Roshani Agar Chaman Main Upar  
Upar Hi Bant Jaye.

Mali, Tumhi Phaisala Kar Do Hum Kisko  
doshi Thahrayai.

I am not against Jai Jawan Jai Kisan.  
Father of a Jawan is kisan and the son of a  
kisan is Jawan.

Kante Upvan Ke Rakhwale Ab Se Nahin  
Jamane Se Hai,

Lekin Unke Muh par Tale Ab Se Nahin  
Mamane Se Hai.

Ye Munh Band Upekshit Kante Apani  
Katha Kahan To Kisse?

Mali Usmain Hai phulon main Apani  
vyatha kahan To kisse, Isi Prashn Ko Lekar  
Kante Yadi Phulon Ke Hi Chubh Jayen.

Mali Tumhi phaisala Kar Do Hum Kishko  
doshi Thahrayan. It is a matter of principle.  
When Prithviraj Chauhan was taking away  
Mohammad Gauri after apprehending him,  
Al Baruni was on a visit to India. He was  
surprised to observe that the farmers were  
working in their fields within the radius of ten  
miles of Delhi as if they had no concern with  
the administration. The country can never  
remain united and integrated until and unless  
there is common man's participation in the  
administration of the country. Apart from  
struggle for freedom, Gandhiji was also  
working for upliftment of Harijans. Gandhiji  
was requested to stop for sometime the work  
for upliftment of Harijans and concentrate on  
freedom struggle. Since you are learned  
people, you might have read in the history  
what Gandhiji replied in this regard. He had  
said that if he got freedom only after stopping  
work for upliftment of Harijans, he would  
never accept that kind of untouchable  
freedom. He meant to say that he did not  
want freedom for the sake of freedom. He  
wanted freedom for changing the system.  
Today, we should ask from ourselves as to  
what extent we have changed the system, to  
what extent the dreams of Gandhiji and  
martyrs have come true. We failed because  
we have never respected the feelings of  
poor, distressed, backward and  
down-trodden people. Nor have we treated  
them equal to us and sit at par. Sometimes,  
the Mandal Commission comes in between  
and now the issue of creamy layer has been  
raised. Forgive me, it seems to me that  
knowingly or unknowingly, there is a

[Sh. Dattatraya Bandaru] ·

conspiracy of dividing one class into two parts, so that they may not fulfil their aspirations. The poor do not know why they are poor. They think that God has made them so. Comparatively, some educated and prosperous people are fighting on their behalf. The conspiracy is to divide the two.

Mr. Speaker, Sir, you have given me the opportunity. I will not misuse it. I would like to say the hon. Members belonging to treasury benches that it is a matter of creamy layer. It is a very serious issue. It is a step to undo the progress made so far. Therefore, I would like to say that it should be withdrawn and recommendations of Mandal Commission should be implemented in toto. This is my humble submission.

17.42 Hrs

#### STATEMENT BY MINISTER

[English]

#### STEPS BEING TAKEN BY THE UNION OF INDIA TO RESOLVE THE DEADLOCK CREATED BY THE ORDER DATED 2ND AUGUST, 1993 OF THE CHIEF ELECTION COMMISSIONER OF INDIA.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H.R. BHARDWAJ): Sir, before I start, I would tender my apology that some inconvenience was caused. It was unavoidable. Because, at 4.30 p.m., the court had to adjourn. I wanted to get some information from the court. There was only half-an-hour in-between. But I did inform the office. Unfortunately, it could not reach in time. I am very sorry.

As the hon. Members are aware, the

constitutional and legal position regarding the scope and extent of disciplinary authority of the Election commission in respect of officers and staff deployed for election work and about the scope and extent of Commission's authority in the matter of deployment of forces to maintain law and order to ensure free and fair elections have been explained by the Attorney General for India yesterday in Lok Sabha. Government accepts the opinion expressed by the Attorney General of India.

The Government of India is firmly committed to resolve the deadlock created by the order of the Chief Election Commissioner of India. Hon. Members are also aware that petitions have been filed in the High Courts of Bombay, Calcutta, Madras and Patna challenging the aforesaid order of the Chief Election Commissioner. The Election Commission has filed a Special Leave Petition in the Supreme Court against the order of the Bombay High Court and the same is coming for hearing tomorrow. The Election Commission has also filed a petition in the Supreme Court seeking transfer of these cases from High Courts to the Supreme Court. The Government is keen that the issues arising out of the said order of the Chief Election Commissioner are heard and decided as early as possible so that the democratic process of holding elections could continue without any hindrance. The Government is taking steps to seek expedited disposal of all the court cases in the regard. (*Interruptions*).

SHRI JASWANT SINGH (Chittorgarh): Mr. Speaker, Sir, I am not going into the details of it. It is not the custom in this House to seek clarifications or make comments, I am really making a request to you. I am not making any comments or am not seeking a clarification from the hon. Minister. It is a request that I am making to you.

The hon. Minister, when he came