

MR. CHAIRMAN: I am giving my ruling.

SHRI KANWAR LAL GUPTA: Nobody can do like this. (*Interruptions*)

SHRI JYOTIRMOY BOSU: Let me make a submission. It is a clear case where a Member's resolution was allowed. Now I am reading out from page 364 of the Lok Sabha Debates, dated 11th April, 1975. It says:

"Now, I have received notice of a motion from Shri Samar Guha. He has brought forward a motion for adjournment of the present debate and also suspension of Rules 29 and 30 to protect its discussion on the next day without ballot. Now, considering the importance of this resolution, as an exceptional case, I have decided to give consent for moving this motion. But I want to make it clear, etc. etc."

There is a clear case. You judge it. My motion is**

MR. CHAIRMAN: Please do not read it out.

SHRI JYOTIRMOY BOSU: I impress upon you that this is a very exceptional case. (*Interruptions*) We want to cooperate with you. (*Interruptions*).

MR. CHAIRMAN: Mr. Somnath Chatterjee gave you a very good advice. (*Interruptions*) I want to tell you. You have referred to the ruling of 11th April, 1975 of the Chairman. I would like to tell you that you please go through this. He has given this ruling. It is on page 364 of the same debates. It says:

"I have decided to give consent for moving this motion. But I want to make it clear that this will not act as a precedent in future."

(*Interruptions*)

SHRI SOMNATH CHATTERJEE: I am on a point of submission.

(*Interruptions*)

MR. CHAIRMAN: You are in the Business Advisory Committee.

(*Interruptions*)

SHRI JYOTIRMOY BOSU: You are the Chairman. You do not know.

MR. CHAIRMAN: Mr. Gupta has already moved it. It is 5.30. Now the half-an-hour discussion will start.

SHRI KANWAR LAL GUPTA: Next item.

SHRI SOMNATH CHATTERJEE. Both are moved. (*Interruptions*)

MR. CHAIRMAN: Prof. Mavalankar.

SHRI JYOTIRMOY BOSU: take it that I have moved.

(*Interruptions*)

MR. CHAIRMAN: No, no.

You have spoiled his game. Prof. Mavalankar. What Mr. Jyotirmoy Bosu has said is not correct. That is clear.

17.30 hrs.

HALF-AN-HOUR DISCUSSION

ARREST OF SENIOR CIVIL SERVANTS

PROF. P. G. MAVALANKAR: (Gandhinagar): We are starting it four minutes late and accordingly time may be extended.

Mr. Chairman, Sir, I am raising this very important issue in the House through half-an-hour discussion on the arrest of senior civil servants because I feel that a number of points arising out of the answers given not only by Shri S. D. Patil, Minister of State in the Ministry of Home Affairs but subsequently by the hon. Prime Minister and the Home Minister on the 23rd November, are not only inadequate but far from satisfying. Therefore, I thought that I must take this opportunity of raising this half-an-hour discussion and bringing to the notice of this August House and

**Expunged as ordered by the Chairman.

through this House of the country. some of the serious questions and implications involved in this whole affair.

I find that the answers given on November 23 are inadequate and incomplete. I am keen that the rights, duties and procedures of the civil service, particularly at sector level, as spelled out clearly, are honestly enforced. With the restoration of Rule of Law in our country—thanks to the Janata Party Government who came into the power—it is all the more vital that the Rule of Law's full implementation is honestly ensured.

Government, in their original answers on November 23—I maintain and I repeat—said certain things which later reports indicate to be not quite satisfactory, if not misleading. That is why I feel that the whole matter is serious and very important. Now, you will see that this whole matter involves certain serious and vital points of principles regarding civil servants' operations and the relationship between the Civil Service and the Government. It is also important and urgent all the more because of the fact that two top senior servants are involved; they have been suspended and no action against them of any kind has even started. Two months have gone and nothing has happened. It is in nobody's interest to keep these things hanging, to keep them in a state of suspension or in a climate of indecision because this will not be good and healthy for the efficient, honest and upright administration in our country. It is a question which affects the senior civil servants, not only at the Centre but also in the States, in our federal polity, and I must say in all fairness and honesty that their morale and their thinking and doings have been gravely damaged because of what happened on October 3 this year when Shri Vohra and Shri Aggarwal were arbitrarily, unexpectedly and suddenly arrested. Undoubtedly it is a fact that this action of Government has demoralised the civil services, and an attitude has grown

now of 'take no decision'; a tendency has grown of 'take it easy'; an inclination has grown 'either to sit tight or keep quiet' and pass on the entire burden of decision-making and policy formulating to the higher-ups, that is, to the political wings or Heads of Government, that is, the Ministers, both Cabinet Ministers and Ministers of State, I want to ask the Government: is this what you want? And do we want to continue having this kind of a stalemate? The feeling has grown in the Capital these days and perhaps in the Capitals of the States also among all the senior civil servants; Let us not take any decisions; let us leave all the matters entirely to our political bosses'. A saying goes—a saying has been coined and is current—in Delhi and elsewhere—in the Capitals of the States also; it is called 'UNCTAD'. I am not referring to the UNCTAD Conference which took place in Latin America; I am referring to another UNCTAD which, in its expanded form, means, 'Under No Circumstances Take Any Decision'. If this mentality grows among the senior civil servants who are almost on par with the Ministers in helping Ministers to come to decisions and in formulating the policies of the Government, then I submit that it is a very grave matter and it is also urgent. Hence, this need for discussion. If this kind of inaction goes on for weeks and months, then I ask the Home Minister, Chaudhuri Charan Singh, as to where will all this lead to. I ask him in all sincerity: will this not lead to some kind of administrative bottlenecks, if not a complete standstill or halt of the entire administration? The senior civil servants are working in a manner in which or by with or through which they become the Government's that is, the political wing's, major, often the most important, instrument for daily use. I ask in all humility: how can you distrust your own instrument? If you treat it in such a casual or light manner, how can you entrust it with multifarious and meaningful responsibilities of implementing Government's

[Prof. P. G. Mavalankar]

policies, programmes and decisions? I am not here to plead for this or that individual, senior civil servant. I do not know these gentlemen at all. Therefore, I am not pleading for them at all. I plead for the rules of procedure, and I plead for rules, practices, conventions and, above all, the rule of law, to be honestly, fully and completely implemented. That is the stand I am taking on this matter. I am on the question of principles, methodology and manner of Government—Civil Service relations and the Civil Services' rights and duties. I am the last person to plead for any guilty persons. If they are guilty, hang them; if the law permits, hang them, although I do not believe in hanging. I am against capital punishment. If the law says 'hang them', hang them. But my point is, have they really been proved to be guilty persons? If not, why all this? Have even the preliminary findings proved any *prima facie* guilt or wrong doing? Without it, how can we proceed so swiftly and so abruptly?

Now, the Civil Service rests on four pillars—which is true of democracy itself in India—namely that of anonymity, integrity, permanence and impartiality. Therefore, the Civil Servant is almost nameless and faceless, he is far, far distant from the glamour and daze of publicity. We Members of Parliament and other leaders of public life have all available forums of publicity to defend themselves, but not so the Civil Servants. Where will they go to defend themselves if they are wrongly arrested without complete or proper evidence and without being told what the particular charge is? Further, politicians in this country who are guilty of a number of grave charges are not being arrested because we say the Rule of Law is there. I agree that the Rule of Law is there, and so we should not arrest any politician, however gravely involved he or she may be in guilt, unless the guilt is proved. But if this is true

of a politician, it is much more true of a Civil Servant who has nobody to support or defend him. We should not allow his whole record of honesty and integrity to be marred just because he belongs to the permanent Civil Service. We let the politician loose and free and arrest the Civil Servant and corner him. The Civil Servants' reaction, therefore, is bound to be sharp—and it is sharp as can be seen from the revival of one of their Associations.

I will not go into all the details and give long quotations, though much needs to be quoted and much needs to be supported with points and facts and arguments, but in today's Statesman there is a report on the front page entitled 'Senior Officials Rally Round Vohra', 'I.A.S. Association Revived'. It goes on to say:

"In a major development this evening, senior officials of the Government appeared to be getting set for a confrontation with the Centre on the issue of demoralisation among them."

Then the report relates how they met for the first time after three years under the Presidentship of Mr. P.R. Nayak and solidly supported Vohra and passed a resolution agreeing to collect funds for his defence. Then it further says:

"Among the 200 or so senior civil servants present were 16 Secretaries to the Government—the largest number at any meeting of the Association which has been defunct for nearly three years."

And then, it appears they have said that if justice is not given to them (I would not call it a threat but it is a grave warning) they will not take decisions or make comments and criticisms on any file but will pass on the entire responsibility of decision-making to the Ministers. That will be an impossible situation. No Government can function if politicians are supposed to go into all the files themselves and take decisions, in as much as the politicians have no time to study volu-

mes of papers since they are busy polli-ticking and moving about all the time in the name of public contracts etc. Therefore, this is very grave news that has been reported in today's Statesman and it is grave because of the implications of the fact that the Civil Servants have taken this decision at the highest level. This kind of a grave and ugly situation of confrontation as has been reported ought to be averted as early as possible. It must not be allowed to grow, much less to gather momentum. Otherwise, we shall witness a peculiar and a most unfortunate paralysis of the entire governmental set-up and working.

Then, again, the arrest and subsequent suspension of Shri B.E. Vohra and Shri S.M. Agarwal, Secretary and Joint Secretary, respectively, of the Ministries of Petroleum and of Communications has been done in a summary manner. The arrest of both these officials has been, according to press reports and reports from other sources, arbitrary and sudden and the treatment afforded to them was humiliating. One was arrested in the office and the other at home, unexpectedly, without notice. Now this has created both a sense of concern and anger as also resentment, and rightly so.

This is the first time since our Independence that two officials of the rank of Secretary and Joint Secretary have been arrested without established procedures for action in such cases having been scrupulously and carefully followed.

Therefore, I am now asking my questions of Mr. Sonu Singh Patil and the Home Minister, Mr. Charan Singh both and I would like the Minister of Home Affairs himself answer these questions:

1. Whose decision was it to arrest these two top civil servants?
2. Were the two senior civil servants shown the FIR?
3. Were they interrogated since?
4. Was any statement-cum-explanation recorded?

I have no time to go into the details but the *Indian Express* report of November 30 and the *Statesman* report of December 5 on the front page point out in so many details as to how nothing has happened so far, that no statement has been recorded and that the civil servants concerned, Mr. Vohra and Mr. Agarwal have not been even once approached by any government interrogating officials as to the charge-sheet against them of the 3rd October which was given to them. My point is: was any statement recorded from these people?

5. Were they given an opportunity to have their say and also to defend themselves? Were they so far contacted by any authority? I want to know.

I also want to know further whether the Director of CBI spoke to Mr. Vohra in July this year and after speaking to him and getting the necessary information from Mr. Vohra then told Mr. Vohra on telephone or may be at a meeting—I do not know how and in what way he told Mr. Vohra—that now it is all satisfactory and is over and that the Home Minister is also satisfied and the matter ends. Having got that report, suddenly this has sprung up again on October 3 and the civil servant concerned was arrested at his office.

MR. CHAIRMAN: Mr. Mavalankar you have made all the points. The time at my disposal is very short.

PROF. P. G. MAVALANKAR: This is a very important matter. I am concluding in a few minutes.

Has the hon. Prime Minister looked into these cases? On November 23, the Prime Minister told me in his reply:

“I have told them (Mr. Vohra and Mr. Agarwal) that I will look into these cases.”

I want to know whether the Prime Minister looked into these cases.

[Prof. P. G. Mavalankar]

Has Mr. Vohra sent any representation to the Prime Minister? Has Mr. Agarwal also done so? What is the progress, if any, of the investigation of these two cases? Why are things not moving at all any direction? Why is no urgency being shown? Why is no *Prima facie* evidence of a criminal dereliction of duty is there, why is the government hesitant? Why do Government not chargesheet them in a court of law? In conclusion and before I sit down:

Is it a fact that the Council of Ministers themselves are deeply divided on this question? And further, Is it true that one more Ministers have seen and/or written to the Prime Minister as also perhaps to the Home Minister strongly deprecating the entire manner and the method of arrests and equally strongly supporting the two Civil Servants concerned?

Are there any adverse records against them? Has the Cabinet Secretary been taken into confidence? If the answers to the above are 'Yes' or 'No', then I want to ask finally.

What led to such an amazing, extraordinary and unheard of action? Why were the procedures of taking action against civil servants ignored when no charge-sheet is made and no explanation is sought?

Why were the usual procedures of departmental inquiry and reprimand dispensed with?

Parliament, public and the Press reaction is legitimately strong and the comments are many. I will not go into that. But all I would say before I sit down is that this has left a bad taste, it is a bitter taste if I may put it that way. Therefore, I want the government to act swiftly, surely and sincerely and with a visible large-heartedness. Punish the guilty, but do not implicate honest people, and unless they are proved guilty, treat them and consider them as honest. If we do that, I want to ask. Why make this a pers-

tige issue? Is it a prestige issue for the government? Is it a prestige issue for the Janata Government? Is it a prestige issue for our Prime Minister or the Home Minister? Is the prestige of a government or an individual more important than the prestige of the rule of law? If that is so, I want them to own the mistake if they feel it, and clear the air because only a fresh air, a clean air will clear all doubts, will clear the grave situation that has developed and then we may have full confidence in the government. I have the confidence in the Janata government, but my confidence in the government is shaken when these things happen in such a grave, dramatic and sudden manner. that is why I have raised this question.

Sir, I am grateful to you for giving me so much time.

MR. CHAIRMAN: Mr. Chandrappan,

SHRI KANWAR LAL GUPTA (Delhi Sadar): Let the Minister reply and then he can ask further questions.

SHRI K. LAKKAPPA (Jumkur): Let him give a wholesale reply.

SHRI C. K. CHANDRAPPAN (Cannanore): I would like to know from the hon. Minister the role of these officials.

I am not so much surprised or I am not against the arrest of top officials if it happens for the first time in the country because such things like the arrest of the former Prime Minister, like the arrest of the former Cabinet Minister, have been made for the first time. So, I am not against it. I would be satisfied if I am told what was the role that these officials played in the course of negotiations with the French Government. If their role is clear then I think it is clear that there can be reason for their arrest or there cannot be reason for their arrest.

Basically my position is, Ministers are accountable to the Parliament and to the country and I feel there should be condition created that the officials of top level who are equally responsi-

ble in dealing with such matters should also be made responsible to the Parliament and the country.

If the Government makes it clear to the House and the country what exactly was the role of these officials in the negotiations and what were the definite charges which the Government framed against them or the Government is intending to frame against these officials. I think other doubts can be clear.

SHRI CHITTA BASU (Barasat): At the outset let me also make my position clear. I do not hold the view that bureaucracy should not be accountable. They are also to be made accountable.

In this particular case, on the 23rd of November during the Question Hour I mentioned that there has been a Negotiating Committee. The Mainstream of 19th November printed the entire document of CFP Agreement.

Let me say that these agreements have got some substantial and material points. I only quote one or two for your information.

The Negotiation Committee says—

“Our choice of consultancy support is, therefore, limited to only CFP and Geoman.”

Again it says—

“The view has since been expressed on behalf of the ONGC that while the CFP should be asked the advice on all matters included in the scope of consultancy under discussion, Geoman would be asked to advise on certain selected items for a second opinion, so to say.”

Again it says—

“However, the Government took the view that the management of the Bombay High must remain squarely in the hands of ONGC and all that, we require your technical consultancy.”

Then they wanted Consultancy service from the CFP.

In the end they say—

“The Committee also asked for certain clarifications and obtained them to their satisfaction.”

It concludes—

“Based on the discussion held with the CFP a draft Heads of Agreement has been drawn up. The Committee recommends that ONGC should enter into agreement with CFP on the basis of this draft.”

My point is this. Has Mr. Vohra for whom I do not hold any brief gone beyond the framework of this draft agreement and whether Government is satisfied that Mr. Vohra did something beyond and against the principle of this agreement? Did he go beyond the limits of the agreement?

PROF. P. G. MAVALANKAR: Sir, I rise on a point of order.

MR. CHAIRMAN: What is your point of order?

PROF. P. G. MAVALANKAR: My point of order is this. It is highly improper, if I may say so, that the Home Minister should leave while discussion is going on?

MR. CHAIRMAN: The Minister of State is here.

PROF. P. G. MAVALANKAR: We want his reply. This shows a wrong attitude of the Government. I am bound to raise this matter. It has never happened like this.

MR. CHAIRMAN: His deputy is here. He will reply.

SHRI KANWAR LAL GUPTA: It is not necessary that the Home Minister should reply. When the Minister of State for Home Affairs is here he is entitled to reply. So, the presence of the Home Minister is not necessary.

PROF. P. G. MAVALANKAR: I do not agree with him.

MR. CHAIRMAN: Please take your seat. Mr. Bosu, have you finished?

SHRI C. K. CHANDRAPPAN: If the Home Minister is here when the reply is given, it is all right.

THE MINISTER OF HOME AFFAIRS (SHRI CHARAN SINGH): I arrived here exactly at 17.30 hours. The Hon. Member, Prof Mavalankar took twenty minutes. More over, I have to attend a meeting of the Sub Committee of the Cabinet. My hon. friend is here and he has been fully posted with all the details.

MR. CHAIRMAN: Mr. Basu, have you not finished?

SHRI CHITTA BASU: No, Sir My question is: whether Mr. Vohra did act beyond the draft agreement as I had mentioned?

Did Mr. Vohra wrongly advise the Minister? I want him to satisfy me on these points. I also want to know whether the Government is satisfied with what Mr. Vohra did and so he was arrested.

PROF. P. G. MAVALANKAR: Sir, I rise on a point of order. I want to go on record that, in the past, even the Cabinet meetings had been postponed if the House went beyond a certain time. Government must show complete respect and pay attention to the House and no meeting other than the duties in the House can be more important. That is an established practice. I want to go on record. The Home Minister, of course, has gone. I am not challenging that. Let the Minister of State for Home Affairs reply. Let this also go on record that all this is showing disrespect to the House and this is not expected from the Janata Government.

MR. CHAIRMAN: Mr. Patil is here.

SHRI KANWAR LAL GUPTA: Sir, I think the time of the House should be extended by another fifteen minutes.

MR. CHAIRMAN: Yes, Is it the pleasure of the House to extend the time

of the House by another fifteen minutes?

SEVERAL HON. MEMBERS: Yes, Yes.

MR. CHAIRMAN: The time of the House is extended by fifteen minutes, of course, with your approval.

Mr. Lakkappa.

SHRI K. LAKKAPA: My friend Prof. Mavalankar has raised an important issue about the arrest of Central Civil servants in the country. This is done for the first time after the Janata Party Government came to power. This has also evoked a certain public interest. Also, there are certain doubts arising about the functioning of the Legislature, the Executive and the Judiciary. It is in a watertight compartment. I should say, that these three wings are functioning. I am not here to safeguard or to defend any bureaucratic wrong action. At the same time, you must know that it is the responsibility of the senior officials to see that they function properly. Certain actions were taken against them by the Home Ministry. Of course certain controversies are also raised. The manner in which the arrests were made shows that it may be due to political vendetta. If the officers concerned involved themselves in dereliction of duty, of course, the law is there and it will take its own course. But, we are not speaking here on that aspect. My Friend

18 hrs.

Shri Chandrappan has also mentioned a point that the civil servants are not responsible to this House for their acts of omission and commission. It is also our experience that the legislative measures taken by this House have been soultled by the bureaucratic authorities. Who is responsible for this? Who is accountable to the people? This country is still in doubt. I may mention here that a policy has been laid down to fix the responsibility and a legislation to this effect has also been made. But here the executive machinery that is operating has come to its own logical conclusion. It is an interesting subject. Why these two senior offi-

cers have been arrested? This has created a confusion because there is a change in the Government. There is a confusion created in the minds of the people. It may be due to political vendetta and even that has not been explained clearly. What were the reasons for their arrest and to what extent are they involved? Whether they are innocent? Even this the people do not know. Because of these things, the entire Government machinery and the executive authorities and the senior officials are not taking any decision on other matters. They are not taking any responsibility in discharging their duties because they do not know to what extent they are responsible for any acts of omission or commission. A confusion has been created in this country and the entire administration of the Government of India has come to a halt and it is also spreading even to the States. I would like to know whether there is going to be a review of the whole situation in regard to the functioning of the executive. To what extent the responsibility could be fixed on the officials through a legislative measure so that they may be accountable to the people?

This is the first time that these things are developing in this country now. Therefore, I want a categorical answer from the hon. Minister as to what steps he is going to take in this regard, to make this executive authority more responsible and accountable to the people of this country. How are you going to ensure responsibility and accountability to the people? Otherwise any Minister can go scot free by throwing the blame on the officers. So also the officers can go scot free by throwing the blame on the Ministers. Therefore, this system should be streamlined and the whole thing should be reorganised and revamped. I want a categorical answer from the hon. Minister whether the Government is going to ensure accountability to the people so that there is a clean administration in this country.

श्री कंबर लाल गुप्त : सभापति जी, मैं इस बात को सिद्धान्त रूप में मानता हूँ

कि कर्णट आदमी कोई भी हो, चाहे छोटा हो या बड़ा, उसको सजा मिलनी चाहिए। और बड़े आदमी को ज्यादा ही सजा मिलनी चाहिए। इस सम्बन्ध में पहले भी कई वक्तव्य प्रधान मंत्री ने भी दिये हैं और गृह मंत्री ने भी दिए हैं लेकिन मैं इस बात को स्वीकार करता हूँ कि यह वक्तव्य देने के बाद एक खासा अच्छा संकणन इस देश में है इंटेलिक्चुअल्स का, सर्विस क्लास का, लाइयर्स का और जजों का जो यह महसूस करता है कि इन दोनों अफसरों के साथ, जिस तरह से इनके केसेज हैंडल हुए वह ठीक नहीं हुआ। यह ज्यादा काशमली होना चाहिए था। लोगों को कहते हुए, मुनते हैं कि पोलिटीशियन्स को अरेस्ट करना एक बात है लेकिन आफिसर्स को उस तरह से अरेस्ट नहीं किया जा सकता, उनके साथ वह बर्ताव नहीं किया जा सकता। पोलिटीशियन्स जवाब दे सकते हैं, इन्दिरा जी दनदना रही हैं लेकिन आफिसर्स जवाब नहीं दे सकते हैं इसलिए दोनों को इक्वैट नहीं किया जाना चाहिए।

दूसरी बात यह है कि एक मीरियस थिंकिंग के बाद उनको कन्फ्रंट किया जाना चाहिए था। मैंने मुना है जो चार्जेंज हैं उसमें दोनों को कन्फ्रंट नहीं किया गया कि आपके खिलाफ यह चार्जेंज हैं, बताइये आपको क्या कहना है। ऐसा करने के बाद अगर गवर्नमेंट समझती है कि कोई गलती है, करणन है तब केम चलाना चाहिए था। चाहे गवर्नमेंट के पास ऐसा भी हो, मैं उसको नहीं जानता लेकिन इम्प्रेशन यह दिखाई दिया है कि यह केम ठीक तरह से हैंडल नहीं किया गया। स्टेट्समैन में जो कुछ आया, मैं समझता हूँ उसकी जरूरत नहीं थी जोकि आई ए एम सर्विस वालों ने किया क्योंकि जनता पार्टी सेक्योरिटी आफ सर्विस में विश्वास करती है, हम नहीं चाहते किमी आफिसर का इनीशिएटिव कर्ब हो। हमने तो यहां तक कहा है कि अगर मिनिस्टर का गलत आर्डर हो तो वह भी नहीं माना

[श्री कंवर लाल गुप्त]

जाना चाहिए। तो इस बारे में कोई दो रायें नहीं हो सकतीं कि हम किसी को भी विक्टिमाइज़ नहीं करना चाहते।

मैं माननीय मंत्री जी से दो सवाल पूछना चाहता हूँ। एक तो यह कि क्या मंत्री जी यह एक्जॉरेंस देंगे इन दोनों आफिसर्स को और बाकी सारी सर्विस को कि जनता पार्टी विंडिकटिव नहीं है, वह सेक्योरिटी आफ सर्विस में विश्वास करती है और वह किसी भी अफसर का इनीशिएटिव खत्म नहीं करना चाहती बल्कि उनका इनीशिएटिव रक्षित रखना चाहती है।

मेरा दूसरा सवाल यह है कि आपने एफ आई आर लिखा दी और उसके बाद इवेस्टिगेशन हो रहा है। ठीक है, इवेस्टिगेशन होगा लेकिन उन्होंने प्रधान मंत्री जी को भी रिप्रेजेंटेशनस दिए हैं। क्या गृह मंत्री जी इस मदन को और इस मदन के जरिए से सारे देश को विश्वास दिलायेंगे कि प्रधान मंत्री जी, गृह मंत्री जी और ला मिनिस्टर—तीनों मिल कर के जो इंकवायरी होगी और जो रिप्रेजेंटेशनस आए हैं उन सब चीजों को दोबारा रिव्यू करेंगे और यह विश्वास दिलायेंगे कि उन दोनों अफसरों के साथ न्याय होगा? अगर उनकी गल्ती नहीं होगी तो प्रेसिडेंट को नहीं बैठेंगे, उनके खिलाफ केसेज़ विदइज़ कर लेंगे। अगर उनकी गल्ती होगी तो उनकी सजा दी जायेगी। इन दोनों मसालों के कैटेगोरिकल आनसर मैं मंत्री जी से चाहता हूँ।

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI S. D. PATIL): I have great regard for the views of Prof. Mavalankar whenever he speaks in this august House. But I am sorry to say that much of his criticism is ill informed and besides the point. He says that there has been breach of the rule of law and that there had been procedural

irregularities and there had been trampling upon procedures and methods. We are wedded to the basic principle of rooting out corruption at the political level as well as at the administrative level. At the political level, we have brought the Lokpal Bill which is under consideration. It is equally our concern to root out corruption in high places in the administration. Many hon. friends' minds are agitated over the fact that two important officers, one joint secretary and another secretary....

SHRI KANWAR LAL GUPTA: Both were secretaries.

SHRI S. D. PATIL: Both were Secretaries and that is the highest office which one can hold in the administrative set up. The sum and substance of your contention is that they have been arrested without solid reasons. But I can say, it is not without any solid substance or without any credible information against them that they have been arrested. We are in possession of credible information against them. There is no breach of law. It has only provided that a prospective accused should be given an opportunity to explain.

SHRI KANWAR LAL GUPTA: I was saying about propriety.

SHRI S. D. PATIL: I come to the question of propriety also. It is not that in these cases no preliminary enquiries were made at all. They were made in both the cases. And the Preliminary enquiries revealed that there was credible information against them and we should work on it. It is not that the Government immediately jumped on them with a political vendetta or any sort of malafides, etc. We know these things because they are holding high offices and they play a vital role in running the administration and we have to depend upon them because they are the persons who are really in charge of the implementation of the Government's policies. We are not ignorant of this fact. With full

responsibility we have acted in this manner. There is a common misconception about the FIR and chargesheet which my esteemed friend, Mr. Mavalankar has voiced. But I do not attribute it to his lack of knowledge, etc. It is common knowledge that FIR only gives a sort of starting point for investigation. It is just an instrument to collect evidence and to proceed further and whatever evidence we have collected, is not a matter to be disclosed to the House or even to the Ministry and that is the procedure required to be followed. Whatever evidence is there in the possession of the police machinery or the investigation machinery, it should be proceeded with and if the evidence is insufficient they can always proceed under 169 for want of sufficient evidence. But if there is sufficient evidence, they can proceed under 172 of CPC and for which they may issue a chargesheet. Sometimes, they may give a supplementary chargesheet also. The question of reviewing the cases does not arise because whatever action has been taken, it is the judgement of the individual Officer concerned.

SHRI KANWAR LAL GUPTA: My question was, after making the enquiry and keeping in view the representation made by these persons, will the Home Minister and the Law Minister look into the cases? What is your view about it?

PROF. P. G. MAVALANKAR: The Prime Minister himself said that he will look into the cases. Has he started looking into the cases?

SHRI S. D. PATIL: While the matter is under investigation, the concerned officers will be questioned.

SHRI K. LAKKAPPA: What was the reason for the Prime Minister calling for the files?

SHRI S. D. PATIL: Under the Service Rules, whenever an officer is suspended, he has a right to represent to the Prime Minister because he happens to be the Head of the Administra-

tion. If they have given some sort of explanation to the Prime Minister, that explanation will also be examined on merits.

PROF. P. G. MAVALANKAR: Have they sent any representation to the Prime Minister?

SHRI S. D. PATIL: They have represented to the Prime Minister saying that this suspension is not proper and so on. Now, while the investigation is on, the police machinery will have to collect sufficient evidence to establish their case. They have to collect documents and oral evidences for that. Here there are two distinct cases, one in which Mr. Agarwal is the only accused and in the other in which there are three accused viz., the ex-Prime Minister, Mr. K. D. Malaviya and another. The relevant question is, whether we have acted rather irresponsibly or in a hurry or whether we have acted without any sort of information in our possession. The role which each accused played is quite obvious in the FIR itself. To again disclose the whole evidence before the court, I think, is not in public interest.

SHRI KANWAR LAL GUPTA: How will you remove the impression in the minds of many intellectuals that this case has not been properly handled? Will you assure them that we are not for victimisation and vindictiveness? Will you review all the material collected by the police?

SHRI S. D. PATIL: The hon. member is agitated because the two officers are the highest officers in the administration. It is easy to be indulgent towards the accused public servants because they are visible and known. As against this we have got the general public interest, which is invisible and which also suffers because of nepotism, corruption and abuse of official position by corrupt officers.

PROF. P. G. MAVALANKAR: You are side-tracking the issue.

(HAH Dis.)

SHRI C. M. STEPHEN (Idukki): They want an assurance that the Minister will do something to demonstrate that it is not for vindictiveness. He knows that it is for vindictiveness. How can he give the assurance?

SHRI S. D. PATIL: In law the position is clear. During investigation, nobody can interfere with it. It is for the investigating machinery to come to the conclusion whether the evidence, in their possession, is sufficient or not to establish a case. If they are satisfied, we will not interfere with their discretion. They want the Prime Minister or Home Minister to look into the matter and give certain suggestions. That sort of position is not contemplated by law.

PROF. P. G. MAVALANKAR: The Prime Minister has said on the floor of the House that he will look into these cases. What is the government doing? Have they been given the FIR? Has anybody met them? Has any chance been given to them to put forward their view? We want facts.

SHRI S. D. PATIL: There is already an FIR on 3rd October, 1977 in both cases. The FIR along with certain papers are filed in the court. The arrest is made by the investigating officers independently. It is not that we have instructed them to arrest. We do not give instructions in writing or orally because it is their judgment.

SHRI KANWARLAL GUPTA: Suppose the CBI decides that they should be hanged under section 302, will the Prime Minister not intervene? Who is responsible? If the police come to the conclusion that they have murdered certain persons and they should be hanged under section 302, will you not intervene?

SHRI S. D. PATIL: That analogy is not applicable here.

SHRI JYOTIRMOY BOSU (Diamond Harbour): It is a quasi-judicial proceeding. How can they intervene? If the CBI and the police have found that there is a *Prima facie* case

and it is in the interest of the State that a certain person should be arrested, it is right that the government is not interfering.

SHRI S. D. PATIL: The hon. Member should congratulate the Government that the Government is not interfering with the work of the investigating agency. Regarding the other questions raised by Mr. Chitta Basu and Mr. Chandrappan, Mr. Chandrappan's question is all right that ultimately the Minister is accountable to the House. But when there is a case of corruption and when there is positive evidence or information, then that will have to be independently worked out. There the question of accountability of the Minister does not arise.

(Interruptions)

SHRI C. M. STEPHEN: Am I to take it as the understanding of the Government as a matter of law that Government as such looking into the information collected and the investigation completed, have absolutely no jurisdiction to say that the information collected etc. does not warrant further prosecution under a particular Section? Is it the understanding of the Home Minister that they have absolutely no jurisdiction at all and that every citizen in this country is just a playboy in the hands of the investigating police officer only and that the political authority in this country has absolutely no authority in it?

SHRI S. D. PATIL: There can be a formal discussion as far as the evidential part of it is concerned. When the collection of evidence is there and supposing it is not sufficient and supposing the officers have got some difficulty or they want to exchange their views, that matter can be discussed at that level.

SHRI KANWARLAL GUPTA: Cases against me have been withdrawn. Why can't you withdraw....

(Interruptions)

SHRI S. D. PATIL: Mr. Kanwarlal Gupta will bear with me that that

stage has not arrived here. The matter is under investigation and the collection of evidence is going on and the matter has not reached that stage.

SHRI JYOTIRMOY BOSU: But *prima facie* the case has been established.

SHRI S. D. PATIL: It is not that the evidence in this case is insufficient and it requires some intervention at the political level.

As far as the particular matters about negotiation are concerned to which Mr. Chitta Basu referred whether it was within the ambit of the negotiation committee, the limited question which was referred to the negotiation committee was how to reduce one company's quotations from \$23 million to \$17 million. That was the only limited question referred to it. I do not want to disclose all evidence, but the part played by Mr. Vohra...

PROF. P. G. MAVALANKAR: Shall we extend the time until he completes his reply?

SHRI S. D. PATIL: I will reply if the time is extended.

(Interruptions)

MR. CHAIRMAN: The Minister is on his legs to reply. He will finish his reply in one or two minutes.

SHRI S. D. PATIL: I will only refer to the relevant part which Mr. Vohra has played as follows:

"The FIR itself indicates the personal part played by Shri Vohra in his capacity as Secretary in the Ministry in recording a note on 24-3-1977 stating that he had discussed the matter with the Minister and it was decided that the agreement with CFP should be first signed. This note gives away Shri Vohra's mind. There was no Minister in position on 24-3-1977 and without waiting for the new Minister to take charge, Shri Vohra had recorded this note. The circumstances of this note definitely go against Shri Vohra's bona fides."

Sir, on the 24th March 1977 there was no Minister functioning. He knew the whole position. The Minister assumed charge three or four days after that. So, it was his responsibility to bring the whole thing to his notice. Here, it is not as if he has acted quite wisely and quite responsibly and that we are unnecessarily trying to involve him.

MR. CHAIRMAN: The House stands adjourned till 11 a.m. on Monday.

18.25 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, December 12, 1977/Agrahayana 21, 1999 (Saka).