

[Shri Subodh Hansda]

of the Comptroller and Auditor General thereon.

[Placed in Library. See No. LT-5467/73.]

REPORT OF COURT OF ENQUIRY INTO NOONODIHJITPUR COLLIERY, IRON ORE MINES LABOUR WELFARE CESS (2ND AMDT.) RULES AND A STATEMENT

THE DEPUTY MINISTER IN THE MINISTRY OF LABOUR AND REHABILITATION (SHRI G. VENKAT-SWAMY): I beg to lay on the TABLE—

- (1) A copy of the Report (Hindi version) of the Court of Enquiry into the Noonodihjipur Colliery accident which occurred on the 18th March, 1973.

[Placed in Library. See No. LT-5468/73.]

- (2) (i) A copy of the Iron Ore Mines Labour Welfare Cess (Second Amendment) Rules, 1973 (Hindi and English versions) published in Notification No. GSR 380 in Gazette of India dated the 7th April, 1973, under sub-section (4) of section 8 of the Iron Ore Mines Labour Welfare Cess Act, 1961.

- (ii) A statement (Hindi and English versions) showing reasons for delay in laying the above Notification.
[Placed in Library. See No. LT-5469/73.]

12.43 hrs.

STATEMENT BY MEMBER RE. BYE-ELECTIONS TO PARLIAMENT AND STATE LEGISLATURES

MR. SPEAKER: Shri Shyamnandan Mishra—Item No. 9.

(Interruptions)

MR. SPEAKER: I have called Shri Shyamnandan Mishra.

(Interruptions)

अध्यक्षम होबय : यह क्या तरीका है ? जब मर्जो हुई खड़े हो गए । मैं नैक्स्ट प्राइम ले रहा हूँ और उस के बीच में खड़े हो गए । आखिर कोई तरीका होना चाहिए ।

This was referred to yesterday, I gave my ruling. I am not allowing anyone except Shri Shyamnandan Mishra.

(Interruptions)

MR. SPEAKER: Mr. Indrajit Gupta says that it has come to Delhi doctors. Let us see what happens. If it happens in Delhi, I will see what to do. If they go on strike, I will ask the Minister to make a statement.

(Interruptions)

MR. SPEAKER: It does not look nice to create unpleasantness in the House. (Interruptions). I am not going to allow it. Everyday this is happening.

(Interruptions)

MR. SPEAKER: I will not permit. I have called the next item.

(Interruptions)

MR. SPEAKER: Nothing will go on record. Unless the Member is called, he will not be recorded. Only that Member who is called, will be recorded, and not the interruptions.

(Interruptions)

MR. SPEAKER: I have made it clear that only that Member will be recorded who is called to speak. He is considered to speak who is called to speak. (Interruptions).

दिल्ली में आया तो बाद में देखेंगे । लेकिन इस समय न कोई बात है न एजेंडे में कुछ है और खड़े हो जाते हैं । . .

(Interruptions)

MR. SPEAKER: If you hold the House to ransom everyday like this,

it is very difficult for the Parliament to function. There is nothing at present before the House. No notice is given. Nothing is there on the agenda.

(Interruptions)

MR. SPEAKER: No point of order. I have called the next Member.

(Interruptions)

MR. SPEAKER: Only when you give the notice, I can take cognizance of it.

(Interruptions)

MR. SPEAKER: Shri Shyamnandan Mishra.

Mr. Banerjee, when any notice comes from you, I will consider it. But please do not do like this.

SHRI S. M. BANERJEE (Kanpur): I have given a notice on Bombay. I have given a notice on the Delhi strike. Everyday, I put my notice in the box before 10 O'clock. If it turns out that I have not given any notice on this, I shall withdraw whatever I have said. I have given a notice on Delhi strike. I would request you to kindly admit it for tomorrow.

MR. SPEAKER: I will enquire whether there is any strike or not.

SHRI S. M. BANERJEE: I would request Mr. Madhu Limaye to wait for another two days. Let the doctors' matter be settled because their luggages have been thrown out. One thousand doctors have been thrown on the streets in Bombay.

MR. SPEAKER: How can the Minister at the Centre reply where the Bombay Minister should reply. It is not within his cognizance....
(Interruptions).

SHRI S. M. BANERJEE: All doctors in Delhi will go on one-hour strike tomorrow. I am talking of Delhi and not of Bombay.

MR. SPEAKER: Shri Shyamnandan Mishra.

All of you may please sit down. Everything should not be settled in this way. We go by certain procedure and not by shouting and counter-shouting. We have to go by regulations and procedures.

(Interruptions)

MR. SPEAKER: Five or six Members hold the whole House to ransom. Order please.

SHRI SHYAMNANDAN MISHRA: Under Direction 115, I beg to point out certain inaccuracies in the statement made by the Minister of State for Law, Justice and Company Affairs on 6th August 1973 while replying to a point made by me during the discussion on Calling Attention Motion on 'Bye-elections'. The reference is to the complaint made by me that the election to the seat which fell vacant as a result of the untimely death of Shri B. R. Mohan had been inordinately delayed despite a notification of the U.P. Election office giving the programme of elections.

The relevant proceedings of the House are as follows:—

"SHRI SHYAMNANDAN MISHRA: The U.P. election office had circulated a notification on the 12th of April that nominations would be received on the 28th of April and the election would be held on the 11th of May. Does the hon. Minister say that it was only in the nature of a suggestion and it was not a notification circulated?

SHRI NITIRAJ SINGH CHAUDHARY: It was not a notification; it was a suggestion by the Election Commissioner to the Chief Electoral

[Shri Nitish Singh Choudhary] Officer, then he circulated it and objections came.

SHRI SHYAMNANDAN MISHRA: It was not a suggestion; that is completely wrong."

As against this I cite the programme notified by the Chief Electoral Officer, U.P. vide communication No. E. 6442/C.E.O. 468/72 dated 12th April, 1973.

निर्वाचन निदेशालय
उत्तर प्रदेश

संख्या ई० 6442/सी० ई० क्र० 468/72

लखनऊ, 12 अप्रैल, 1973

प्रेषक,

मुख्य निर्वाचन अधिकारी,
उत्तर प्रदेश ।

सेवा में,

महा मंत्री,
समस्त राजनैतिक दल,
उत्तर प्रदेश, लखनऊ ।

विषय : राज्य सभा एवं उत्तर प्रदेश विधान परिषद् के लिए विधान सभा के सदस्यों द्वारा उप-निर्वाचन—श्री श्री वी० आर० मोहन, राम गुलाम एवं नन्द कुमार बेब वशिष्ठ की मृत्यु के कारण रिक्त स्थान—कार्यक्रम—

महोदय,

मुझे यह कहने का निदेश हुआ है कि राज्य सभा के लिए निर्वाचित श्री वी० आर० मोहन की मृत्यु के कारण रिक्त स्थान एवं विधान परिषद् के सदस्य सर्व श्री राम गुलाम एवं नन्द कुमार बेब वशिष्ठ की मृत्यु के कारण रिक्त स्थानों की पूर्ति हेतु विधान सभा के सदस्यों द्वारा उप-निर्वाचनों का लिखित कार्यक्रम भारत निर्वाचन आयोग ने निश्चित किया है:—

- | | |
|---|--------------------------|
| 1. विज्ञापित जारी किए जाने की तारीख | 21 अप्रैल, 1973 (शनिवार) |
| 2. नाम निर्देशन दाखिल करने की अंतिम तारीख | 28 अप्रैल, 1973 (शनिवार) |
| 3. नाम निर्देशनों की संवीक्षण की तारीख | 30 अप्रैल, 1973 (सोमवार) |
| 4. नाम वापस लेने की अंतिम तारीख | 2 मई, 1973 (बुधवार) |
| 5. मतदान की तारीख:— | |

(क) राज्य सभा के लिए उप चुनाव निर्वाचन
(श्री वी० आर० मोहन की रिक्ति के कारण)

11 मई, 1973 (शुक्रवार)

(ख) विधान परिषद् के लिए उप-निर्वाचन—
(श्री राम गुलाम की रिक्ति के कारण)

12 मई, 1973 (शनिवार)

(ग) विधान परिषद् के लिए उप-निर्वाचन
(श्री वशिष्ठ की रिक्ति के कारण)

14 मई, 1973 (सोमवार)

(घ) निर्वाचन पूर्ण होने के दिनांक

19 मई, 1973 (सोमवार)

(ङ) मतदान का समय

10-30 बजे प्रातः से
3-30 बजे सायं तक

(च) मतदान का स्थान

तत्काल स्थान, विधान भवन, लखनऊ ।

भवदीय

(ह०) गिरिश चन्द्र उपरिठी,
उप मुख्य निर्वाचन अधिकारी ।

This notification gives a precise, definite and unambiguously clear programme finally fixed by the Election Commission of India.

This document does not say anywhere in any way, directly or by implication, that it was a tentative programme subject to suggestions and advice from the political parties or depending upon any consultations with them. The words in the document to quote are:

“निम्नलिखित कार्यक्रम भारत विविध क्षेत्रों में निर्दिष्ट किया है ”

The words admit of no doubt, and ambiguity—and cannot lead themselves to any other interpretation.

That being so, it is my respectful submission that the Hon'ble Minister made a wrong and misleading statement when he said:

“It was a suggestion by the Election Commissioner to the Chief Electoral Officer, then he circulated it and objections came.”

It is clear from the document, therefore, that it was (a) not a suggestion to the Chief Electoral Officer, U.P., (b) it was not circulated for inviting suggestions or objections; and (c) it was a definite, fixed and final programme circulated for information to all concerned.

It was on this basis that I sought to make out that such a programme of fixed, final and definite nature was cancelled for inexplicable reasons. The plea that this programme was indefinitely postponed on a request from an Opposition party is not convincing both in view of the finality of the programme and the absence of any such precedent. It stands to reason that the processes of consultation with the State Government and political parties are undertaken before and not after the finalisation of

the programme. In fact, it has been our experience that an election to Lok Sabha proposed to be held on the death anniversary of Mahatma Gandhi and divorced from the elections to the Assembly which were due only one month or so later was not postponed despite representations from almost all political parties.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI NITIRAJ SINGH CHAUDHARY): Mr. Speaker, Sir, Shri Shyamnandan Mishra, M.P. has alleged that a wrong and misleading statement was made by me during the Calling Attention regarding the unusual delay in holding certain bye-elections to Lok Sabha and Legislative Assemblies.

The crux of the matter pertains to the following observations from the proceedings of the House, which have been extracted by Shri Mishra himself.

“Shri Mishra:.....Does the Hon'ble Minister say that is (sic) was only in the nature of a suggestion and it was not a notification circulated?”

Shri Nitiraj Singh Chaudhary: It was not a notification;....”

The question was whether the communication from the Chief Electoral Officer to the General Secretaries of all political parties in Uttar Pradesh dated the 12th April, 1973 was not a notification, I said that “it was not a notification”. In making this statement, I would like to assure the House with all the emphasis at my command that there was no question of making “a wrong and misleading statement”. Bye-elections to fill a seat in the Council of States are regulated by the provisions of section 147, read with sections 39 and 56 of the Representation of the People Act, 1951. In the case of a vacancy

[Shri Nitiraj Singh Choudhary]

occurring in the Council of States, a notification is issued by the Election Commission under section 147 along with which simultaneously two other notifications under sections 39 and 56 are issued setting out the programme of the bye-election and the time for poll. All these have to be published in the Official Gazette. The above procedure is invariably followed in all cases of bye-elections and that alone gives a firm legal basis to the programme of any bye-election to be held by the Election Commission. Thus it needs no further elaboration that a communication in the form of a letter from the Chief Electoral Officer to the General Secretaries of the political parties, albeit with the use of the expression 'nischit' in that communication, cannot be a substitute for valid notifications under the relevant sections of the Representation of the People Act, 1951.

It is for the foregoing reasons that I had stated then, and wish to repeat it now, that the communication from the Chief Electoral Officer referred to by Shri Shyamnandan Mishra is not a notification within the meaning of the provisions of the Election Law.

13.00 hrs.

SHRI SHYAMNANDAN MISHRA: The points that I have raised have not been clarified by him. He has said that it was in the nature of a suggestion from the Election Commission of India to the Chief Electoral Officer. I have cited the document to show that it was a final fixed programme.....

MR. SPEAKER: The hon. Member has said what he wanted and the hon. Minister has also had his say.

SHRI SHYAMNANDAN MISHRA: That means that the controversy should continue? We would like the matter to be set at rest finally.

श्री अटल बिहारी वाजपेयी (ग्वालियर) : मान लीजिए नोटिफिकेशन नहीं था लेकिन पोलिटिकल पार्टीज को नोटिफाई जरूर किया। वे एक बड़ा संकीर्ण मतलब निकाल रहे हैं। आखिर पोलिटिकल पार्टीज को जो चिट्ठी भेजी गई क्या उनको नोटिफाई करना नहीं था? नोटिफाई करना और नोटिफिकेशन निकालना— इसमें एक बारीक रेखा खींची जा रही है।

(व्यवधान)

श्री श्यामानन्दन मिश्र : मैं ने तो कहा नोटिफिकेशन इनके कहने के मुताबिक एलेक्शन कमिशन इश्यु करता है। हमने कहा कि चीफ एलेक्टोरल आफिसर ने प्रोग्राम को नोटिफाई किया, एक नोटिफिकेशन प्रोग्राम के बारे में निकाला, हमने भी नोटिफिकेशन उस अर्थ में नहीं कहा जिसमें वह बतला रहे हैं। वह नोटिफिकेशन तो एलेक्शन कमिशन ही करेगा। तो जब मैं ने पूछा कि चीफ एलेक्टोरल आफिसर ने कोई नोटिफिकेशन जारी किया, प्रोग्राम निश्चित करते हुए या नहीं, तो इन्होंने कहा वह 'सजेशन' है। अब कैसे हम बतायें कि वह तो एक हफ्ता पहले विज्ञप्ति निकलती है और उसके पहले सारा मामला हो जाता है

अप्यक्ष महोदय : आपने कह लिया जो कहना था। अब यह कब तक चलेगा ?

(व्यवधान)

श्री श्यामानन्दन मिश्र : ऐसा कोई प्रिंसिपल नहीं है। कन्सल्टेशन होकर प्रोग्राम फाइनलाइज होता है। महात्मा गांधी के निधन दिवस को भी प्रोग्राम कैसिल नहीं किया गया था। (व्यवधान) अब किस तरह से हम लोगों को संतोष होगा ? (व्यवधान)

श्री भद्रु लिवसे (बांका) : भरा व्यवस्था का सवाल है। यह कार्य प्रक्रिया के बारे में है। आपने कहा कि इन्होंने कह दिया और उन्होंने कह दिया लेकिन आपका जो निर्देश 115 में

है उसका अर्थ उद्देश्य है ? मन्त्री महोदय गलत-बयानी करें तो सदस्यों को अधिकार है कि सदन का ध्यान उसकी ओर खींचें और उसके बाद यदि आपको उसके बारे में ऐसा लगता है कि वास्तव में गलत बयानी की है तो आपको भी कुछ कहना चाहिए। अगर आप इसको इस तरह से छोड़ देंगे तो यह हमेशा ही इस तरह के जूठे जवाब देंगे।

अध्यक्ष महोदय : मेम्बर साहब ने कह दिया और उन्होंने जवाब दे दिया, अब मैं यहाँ पर ज चोड़े ही बैठा हूँ।

श्री मधु लिमये : आप जज ही हैं।

MR. SPEAKER: दोनों को राइट दिया है।

There is nothing in the rules to say that after hearing both, the Speaker will give a verdict.

श्री मधु लिमये : अगर वह कह दें कि मेरी गलती हुई तब भी हम मान लेंगे लेकिन वह अपनी गलती भी मानने के लिए तैयार नहीं है। (इयवबान)

MR. SPEAKER: It is for the House to decide, not for the Speaker to do so.

SHRI JYOTIRMOY BOSU (Diamond Harbour): We are more confused. Would you kindly help us to find out the truth as to who is correct as between the two parties?

MR. SPEAKER: Under what rule have I to find out?

SHRI MADHU LIMAYE: Direction 115.

MR. SPEAKER: That allows a member to make a statement and the other member to reply. I am not here to judge as to who is right and who is wrong. It is for the House to judge. The House is sitting.

SHRI JYOTIRMOY BOSU: Kindly ask the senior Minister to make a statement and clarify the position.

MR. SPEAKER: A statement has already been made.

SHRI JYOTIRMOY BOSU: Let him clarify.

MR. SPEAKER: No. The procedure has been followed.

SHRI SHYAMNANDAN MISHRA: Should there not be a further direction if the doubts remain unclarified? What is the way out for the hon. Members?

MR. SPEAKER: For what?

SHRI SHYAMNANDAN MISHRA: If the doubts raised remain unclarified, what is the way open to the hon. Member? Should there not be a direction from the Chair on this?

MR. SPEAKER: He can give notice of a discussion and leave it to the House. (Interruptions)

If the procedures are going to take this shape everyday. I do not know where it will end. The member has raised the point and the Minister has replied. If the member is not satisfied, let him give notice of a discussion. We will fix it up. That is all.

SHRI K. MANOHARAN (Madras North): He has raised a point and the Minister has replied. The House is not satisfied with the Minister's reply. The member says he is right and the Minister says he is right. I want to know whether it is within your purview or jurisdiction to write a letter to the Election Commissioner and through him ascertain the facts as to whether positive, definite notification was issued.

MR. SPEAKER: Do not make the Speaker so powerful as to do all these things independent of rules.

SHRI G. VISWANATHAN (Wandiwash): We are prepared to give you enough power.

MR. SPEAKER: Suppose the Election Commissioner says: 'I am independent; I am not bound to do this'. Then where will I be? There is no question of new powers for the Speaker.

SHRI SHYAMNANDAN MISHRA: How powerful the Bihar Speaker is?

SHRI G. VISWANATHAN: The Speaker has allowed it in Bihar.

अध्यक्ष महोदय : बिहार लोगों का मैं मुकाबला नहीं कर सकता। बिहार के लीग तगड़े हैं और पंजाब के कमजोर हैं।

श्री श्याम लिनमथे : अध्यक्ष महोदय, आप अपने निर्देश के अनुसार तो चल ही सकते हैं। 115 क्या है, उसको देखें :

"A member wishing to point any mistake or inaccuracy...."

मिस्टेक या इनएक्युरसी को करेक्ट करने के लिए है। जब इन्होंने बतला दिया और वे उसकी स्वीकार नहीं करते हैं तो आपको निर्णय करना चाहिए कि यह आपकी गलती है और इसके लिए माफी माँगिए। 115 का कही मतलब है।

अध्यक्ष महोदय : दोनों को सुनकर अगर मिश्र जी को कहे कि वह गलत है तो वह मेरे सिर को झरिंगे।

SHRI SHYAMNANDAN MISHRA: Do not presume my action. (*Interruptions*).

अध्यक्ष महोदय : जब दो आदमी लड़ते हैं तो समझदार लोग बीच में नहीं आते इस बातसे कि किसी की लाठी उनको न लग जाए। मुझे भ्राना पड़ता है। मुझे तो दोनों तरफ से लग जाती है। मिश्रजी जब जी चाहता है धीर देते हैं।

SHRI P. K. DEO (Kalahandi): Mr. Speaker, I am reminded of an incident in 1969 when Shri Jawaharlal Nehru was the Prime Minister. He came and apologised to me and to the House; it is on the record. You can see that.

अध्यक्ष महोदय : ऐसे आदमी को स्पीकर नहीं बनाना चाहिये जो तर्जुमा रखता हों। मुझे दस पंद्रह साल का रहा है। नया बनाएँ ताकि उसको जिघ्र चाहें भोड़ा जा सके।

13.11 hrs.

MATTER UNDER RULE 377

NON-AVAILABILITY OF WAGONS IN KERALA

DR. HENRY AUSTIN (Ernakulam): Mr. Speaker, I wish to draw the attention of the House to a matter of public importance, namely, the non-availability of wagons to lift rice from various parts of the country to famine-stricken areas, particularly to Kerala. The leading newspapers of Kerala have come out with the news that rice is available, particularly in Nepal and recognised agencies have purchased rice from Nepal, about 5,000 tonnes, and this is lying there and could not be moved due to non-availability of transport facilities. I am not sure whether these reports are correct. Everyone in this House is aware of the serious food situation that is faced by the people of Kerala. The Onam festival which symbolises plenty, during which Lord Mahabali is supposed to visit every home in Kerala, is fast approaching. This is celebrated with great éclat as a national festival in early September every year. The Government and the leaders of Kerala are making hectic efforts to mop up as much rice