

14.45 Hrs.

DELHI HIGH COURT (AMENDMENT) BILL*

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): I beg to move for leave to introduce a Bill to amend the Delhi High Court Act, 1966.

MR. DEPUTY-SPEAKER: The question is...

SHRI SHRI CHAND GOYAL (Chandigarh): I am opposing that...

MR. DEPUTY-SPEAKER: You should have written to me before. You stand on formalities regarding procedure...

SHRI SHRI CHAND GOYAL: I do not stand on formalities.

MR. DEPUTY-SPEAKER: If you have given any intimation of your intention to oppose at the introduction stage, then alone the Chair can permit you.....

SHRI SHRI CHAND GOYAL: We can make an oral request. You have been permitting.

MR. DEPUTY-SPEAKER: I cannot regulate the procedure like this. Then anybody might get up and speak.

SHRI SHRI CHAND GOYAL: Where are the rules prescribing this restriction that we cannot do this when the Bill is being introduced? This is the proper stage. You have been permitting others.

MR. DEPUTY-SPEAKER: He had taken enough care to write to the Chair before. The member who wants to oppose has to write to the Chair before; otherwise, this will be misused. Please excuse me.

The question is:

"That leave be granted to introduce a Bill to amend the Delhi High Court Act, 1966."

The motion was adopted.

SHRI VIDYA CHARAN SHUKLA: I Introduce† the Bill.

14.48 HRS.

CENTRAL INDUSTRIAL SECURITY FORCE BILL—contd.

MR. DEPUTY-SPEAKER: Now we take up further consideration of the Central Industrial Security Force Bill, as passed by Rajya Sabha.

Yesterday, the question of Attorney-General had come. I will read out Mr. Banerjee's first motion.

If the first motion is accepted, then alone the second motion will come. The first motion reads as follows:—

"That rule 338 of the Rules of Procedure...."

SHRI S. M. BANERJEE (Kanpur): Unless you read the second motion, it will not be understood.

MR. DEPUTY-SPEAKER: I will read both. But I will have to take the vote on the first motion first. That is very clear. The first motion reads as follows:—

"That rule 338 of the Rules of Procedure...."

SHRI S. M. BANERJEE: I want to know one thing. I want some clarification from you. Why is the first motion at all necessary? Let us see where suspension of rule 338 is necessary....

MR. DEPUTY-SPEAKER: That is self-explanatory.

SHRI S. M. BANERJEE: The question is this. If I had tabled this motion

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†Introduced with the recommendation of the President.

[Shri S. M. Banerjee]

yesterday morning or the day before, this would have been admitted without this rule....

MR. DEPUTY-SPEAKER : We cannot take up the second motion unless the rule is suspended.

The first motion reads as follows :

"That Rule 338 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motion for adjournment of the debate on the Central Industrial Security Force Bill, 1968, as passed by Rajya Sabha, be suspended."

This is the first motion. I will read both the motions and then put them to vote separately. In case the first motion is carried by the House, the second Motion will come before the House. The second motion reads as follows :

"That the debate on the Central Industrial Security Force Bill, 1968, as passed by Rajya Sabha, be adjourned for the purpose of requesting the Attorney General of India to address the House on the Constitutional aspects of the Bill."

श्री जार्ज करनेन्डीज : (बम्बई दक्षिण) : उपाध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। कल यहाँ जो अटार्नी जनरल के मिलमिले में प्रस्ताव पेश हुआ

MR. DEPUTY-SPEAKER : It was a suggestion. It was not a resolution.

SHRI S. M. BANERJEE : Kindly read it. I am very sure of my motion.

श्री जार्ज करनेन्डीज : उपाध्यक्ष महोदय, प्रस्ताव है, इसको आप पढ़ेंगे। उपाध्यक्ष महोदय उसको पढ़ा जाये, यह बहुत ही महत्वपूर्ण है।

MR. DEPUTY-SPEAKER : You gave intimation to move a motion. Actually, a motion was not moved. (*Interruption*) Yesterday when I passed it as a suggestion to this side, you never raised objection. You gave intimation, I know.

SHRI S. M. BANERJEE : I wrote a letter to the Speaker.

श्री जार्ज करनेन्डीज : उपाध्यक्ष महोदय, मेरा यह कहना है कि इस सदन में जब कल यह प्रस्ताव आया, किसी कारण से आपने यह कहा कि इस प्रस्ताव को मैं सरकार के पास भेज रहा हूँ....

MR. DEPUTY-SPEAKER : I said it was a suggestion.

श्री जार्ज करनेन्डीज : जो भी हो, जो कुछ भी प्रस्ताव था, मैं भी यहाँ बैठा था और मैंने देखा था वह प्रस्ताव के रूप में था। अब उपाध्यक्ष महोदय आपके सामने दो प्रस्ताव हैं, एक प्रस्ताव है कि कल को सर्वेड किया जाये।

SHRI S. M. BANERJEE : Sir, my letter reads as follows :

"Mr. Deputy-Speaker,

I beg to move :

'That the Attorney General be called to address this House on the constitutional aspects of the Bill.'

S. M. Banerjee,
Division No. 366."

MR. DEPUTY-SPEAKER : I thought it was a suggestion to this side, and I made a statement. If you wanted to make a motion, a regular motion, you should have got up and made that motion there and then. The time has gone. You are aggrieved at this stage. I recognise it. But I would say, that was the time. Now please resume your seat.

SHRI S. M. BANERJEE : If there is any doubt, the benefit of doubt should come to me, Sir.

श्री जार्ज करनेन्डीज : मेरा जो व्यवस्था का प्रश्न है वह इस बात को लेकर है कि कल जो प्रस्ताव बनर्जी साहब ने दिया उस पर मतदान नहीं हुआ। आपने कहा कि मैं सरकार को पेश कर रहा हूँ। अब यहाँ जो प्रस्ताव नम्बर एक है, आज जो दो प्रस्ताव बनर्जी

साहब ने दिये हैं, जिनको आपने पढ़कर सुनाया है, उसमें प्रस्ताव नम्बर एक पर मतदान का प्रश्न ही नहीं आता। क्यों नहीं आता ?

“Rule 338 of the Rules of Procedure and Conduct of Business of the House in its application to the motion for adjournment of the debate on the Central Industrial Security Force Bill as passed by Rajya Sabha be suspended.”.

रूल 338 में यह है कि :

“A motion shall not raise a question substantially identical with one on which the House has given a decision in the same session.” .

इस प्रश्न पर जो प्रस्ताव नं० 2 है कि अटारनी जनरल को यहां बुलाया जाय, उस पर अभी सदन ने राय व्यक्त नहीं की है। आपने समझा कि वह प्रस्ताव नहीं है, विनती है। विनती समझ कर आप ने कहा कि सरकार को भेज रहे हैं। अगर आप ने प्रस्ताव पर सदन से मत मांगा होता तो उसने अपना मत व्यक्त किया होता, और इसमें जो प्रस्ताव नं० (1) है उस को रिलेवेन्स का जहां तक प्रश्न है, मैं कहना चाहता हूँ कि यहां उस की कोई रिलेवेन्स नहीं है। असल में जो प्रस्ताव नं० 2 है वही कल से सदन के सामने हैं। किसी कारण से उपाध्यक्ष महोदय ने उसे नहीं देखा। अगर उसको देखते हुए आप गलती कर गये हैं तो उस गलती से हमें कोई मतलब नहीं है। हम यह नहीं करते कि आप ने कोई पाप किया है। मैं यह मानता हूँ कि आप ने उस को उठने वक्त जल्दो में उसको नजरअन्दाज कर दिया और सरकार को उसे भेज दिया। इस लिये जो प्रस्ताव कल श्री एस० एम० बनर्जी ने दिया था, मैं चाहूंगा कि उसको यहां पर लाया जाये। 4 बजे जो प्रस्ताव दिया गया था अगर उस में कोई जल्दबाजी है तो मेरा निवेदन है कि मैं श्री शकधर की किताब ले आया हूँ। जब आप ने इस पर बहस उठाई तो मुझ को श्री शकधर की किताब को लाना पड़ा। आप देखिये कि वह क्या कहते हैं : 55LSS(CP)68.

“Members may give notice of motion asking the Attorney-General to be present in the House in connection with a certain Bill or business before the House. Such notices are admitted and it is for the House to take a decision thereon.”

मामला बिल्कुल माफ है। श्री शकधर सदन के सेक्रेटरी हैं जिन की किताब पार्लियामेंट लाइब्रेरी में रखी है। यहां पर भी है। उन्होंने साइटेशन दिया है यहां पर :

“Lok Sabha Debates, 12-3-1954 and 1-5-1954.”

पिछली लोक सभा में जब-जब 1963 में यहां पर कम्प्लेरी डिपॉजिट स्कीम आई थी तब भी अटारनी जनरल को बुलाया गया था। प्रिवेंटिव डिस्टेंशन बिल के वक्त भी अटारनी जनरल को बुलाया गया था। आज से पांच साल पहले बुलाया गया था। इसलिये अटारनी जनरल को बुलाने का जो अधिकार है वह सदन को है, और नं० (1) का जो प्रस्ताव है उस का यहां कोई मतलब नहीं है। आप या तो जो लिखित मोशन था उस को लें या 4 बजे वाले मोशन को लें, अथवा जो नं० (2) का मोशन है उस को लें और अटारनी जनरल को बुलाने का मौका हमें दें।

MR. DEPUTY-SPEAKER: Will the hon. Member kindly go through the proceedings of the House yesterday? The question that was put to the House was this :

“That the debate on the Central Industrial Security Force Bill, 1968, as passed by Rajya Sabha, be adjourned.”

That motion was by Shri Deven Sen and that was the first motion given notice of long ago.

Even assuming that this motion was to be taken up, without adjourning the debate I could not have admitted it then. Rule 338 is very clear on this point. Yesterday, the House has taken a decision, and, therefore, this is not admissible.

[Mr. Deputy-Speaker]

At this stage, even if I were to permit him to make that motion, without suspending or adjourning the debate, how am I to proceed?

श्री जार्ज करनेन्डीज : उपाध्यक्ष महोदय, आप मेरी बात सुनिये ? मैं एक मिनट में खत्म कर दूंगा। कल जो प्रस्ताव मेरे मित्र श्री देवेन सेन ने दिया था उसी समय या उस के एक घंटे बाद अगर प्रस्ताव आया होता और दोनों प्रस्ताव अमेडमेंट के रूप में आये होते तो नियम के अनुसार सब से पहले यह था कि बहस को स्थगित किया जाये। यह था कि :

that the debate on the entire discussion be adjourned in order to call the Attorney-General that is, that the debate be adjourned indefinitely.

पहले वह प्रस्ताव आप पेश करते और उस प्रस्ताव के डिफाइट होने के बाद जिस मोशन को श्री बनर्जी ने रखा था उस को मदन के सामने रखते। हमारे सामने दूसरा मोशन है जिसमें यह लिखा हुआ है कि अटारनी जनरल को इस बिल पर अपनी राय पेश करने के लिये इस सदन में बुलाया जाये। आप को इस सदन का जो अनुभव है और इन नियमों के बारे में जो अनुभव है उस को मद्देनजर रखते हुए मैं मानता हूँ कि आप पहले श्री देवेन सेन के मोशन को पेश करते, उस के हार जाने के बाद आप दूसरे मोशन को रखते। हो सकता है कि सरकार के लोग भी इस बात को महसूस करते कि कानून के बारे में यहाँ बैठे हुए लोगों का जो ज्ञान है वह अधूरा है। इस लिये अटारनी जनरल को बुला कर उन की राय को सुना जाय। अगर श्री देवेन सेन का मोशन गिर जाता कि इंडिफिनिटली बहस को स्थगित किया जाय तो, श्री बनर्जी का मोशन मंजूर हो सकता था। इस लिये आप ने जो कहा कि रूल को सस्पेंड करने की आवश्यकता है और उस पर मोशन गिरने के बाद दुबारा बहस नहीं हो सकती है, इसके सम्बन्ध में आप रूल 338 देखिये। मैं बहुत नम्रता पूर्वक कहना चाहता हूँ कि 338 में यह लिखा है :

"A motion shall not raise a question substantially identical with one on which the House has taken a decision in the same session."

मदन ने अटारनी जनरल को बुलाने के प्रश्न पर अपनी कोई राय नहीं दी है। अगर उसने अपनी राय दी होती और अटारनी जनरल को बुलाने का प्रस्ताव स्वीकार न किया होता, और आज वह प्रस्ताव दुबारा आ जाता तब रूल सस्पेंड करने की बात आती, दरना यह बात नहीं आती।

SHRI DATTATRAYA KUNTE (Kolaba) : The point is very simple, whether the Attorney-General could be requested to come to the House and address it at any stage or not. It may be that yesterday we did not feel the necessity for his addressing the House. It may be that we have had certain discussions on the points involved and which were before the House. But if today the House feels that the Attorney-General be requested to address it, such a Motion is in order and can come.

Therefore, the question of suspending a particular rule does not arise, whether a particular decision has been taken yesterday or not. The Motion is very simple. It can arise at any stage, even at the third reading, if a doubt arises and if the House desires to hear the Attorney-General.

Therefore, I do not see how it is being tried to put the two rules together. You might say that yesterday a suggestion was made. As you yourself have said, that it was a suggestion which you passed on to the Government, it meant the it was not considered by the House. Therefore, this proposition has come before the House for the first time. As I have said, it can come at any stage, even at the third reading and passing stage.

SHRI NAMBIAR (Tiruchirappalli) : The question is whether the House agrees or not.

SHRI N. SREEKANTAN NAIR (Quilon) : The debate need not be adjourned for the purpose.

MR. DEPUTY-SPEAKER : Unless the debate is adjourned, how it is possible for the Attorney-General to be present at such short notice and address the House on this question ?

SHRI DATTATRAYA KUNTE : If you will look through the proceedings of this House as well as the other House, you will see that it has never happened that whenever a request was made to him to address the House, he could immediately come or it was said that he should immediately come. A request is made. The Motion does not say that till the Attorney-General addresses the House, the discussion should be adjourned. The notice is limited. It is that the Attorney-General address this House on certain points that have been raised. Therefore, the question of adjournment of the debate is not there. If anybody chooses to imagine it is there, I cannot answer imaginary points.

MR. DEPUTY-SPEAKER : So in the meantime the debate continues ?

SOME HON. MEMBERS : Yes.

MR. DEPUTY-SPEAKER : Then I will put Shri Banerjee's Motion, which he had given notice of yesterday and today also, to this extent to the vote of the House, namely, that the Attorney-General of India be called to address the House on certain constitutional aspects of this Bill.

SHRI S. M. BANERJEE : Sir, I move :

"That the Attorney-General of India be called to address the House on certain constitutional aspects of this Bill."

MR. DEPUTY-SPEAKER : The question is :

"That the Attorney-General of India be called to address house on certain constitutional aspects of this Bill."

The Lok Sabha divided :

Division No. 5]

AYES

[15.05 hrs.

Amat, Shri D.
Banerjee, Shri S. M.
Bharati, Shri Maharaj Singh
Chakrapani, Shri C. K.
Chandra Shekhar Singh, Shri
Chaudhuri, Shri Tridib Kumar
Daschowdhury, Shri B. K.
Deb, Shri D. N.
Deiveekan, Shri
Dhrangadhra, Shri Sriraj Meghrajji
Dwivedy, Shri Surendranath
Fernandes, Shri George
Gopalan, Shri P.
Gowd, Shri Gadilingana
Goyal, Shri Shri Chand
Gupta, Shri Indrajit
Jha, Shri Shiva Chandra
Jhar khande Rai, Shri
Joshi, Shri Jagannath Rao
Joshi, Shri S. M.
Kameshwar Singh, Shri
Koushik, Shri K. M.
Lobo Prabhu, Shri
Maiti, Shri S. N.
Majhi, Shri M.

Mayavan, Shri
Meghachandra, Shri M.
Menon, Shri Vishwanatha
Mody, Shri Pilloo
Mohamed Imam, Shri J.
Mukerjee, Shri H. N.
Naik, Shri G. C.
Nair, Shri N. Sreekantan
Nair, Shri Vasudevan
Nambiar, Shri
Nath Pai, Shri
Patil, Shri N. R.
Ramamurti, Shri P.
Samanta, Shri S. C.
Satya Narain Singh, Shri
Sen, Shri Deven
Sen, Dr. Ranen
Shah, Shri T. P.
Sivasankaran, Shri
Somasundaram, Shri S. D.
Suraj Bhan, Shri
Tapuriah, Shri S. K.
Tyagi, Shri Om Prakash
Viswambharan, Shri P.
Viswanatham, Shri Tenneti

NOES

Ahirwar, Shri Nathu Ram
 Arumugam, Shri R. S.
 Bajpai, Shri Vidya Dhar
 Barua, Shri Bedabrata
 Barua, Shri R.
 Barupal, Shri P. L.
 Baswant, Shri
 Bhandare, Shri R. D.
 Bhattacharyya, Shri C. K.
 Dass, Shri C.
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhillon, Shri G. S.
 Gavit, Shri Tukaram
 Girja Kumari, Shrimati
 Gudadium, Shri B. K.
 Gupta, Shri Lakhna Lal
 Hari Krishna, Shri
 Jadhav, Shri V. N.
 Kamble, Shri
 Kamala Kumari, Kumari
 Katham, Shri B. N.
 Krishnan, Shri G. Y.
 Kureel, Shri B. N.
 Lakshmikanthamma, Shrimati
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Lutfal Haque, Shri
 Mahajan, Shri Vikram Chand
 Mahishi, Dr. Sarojini
 Mandal, Dr. P.
 Mandal, Shri Yamuna Prasad
 Master, Shri Bhola Nath
 Mishra, Shri Bibhuti
 Mondal, Shri J. K.
 Nayar, Dr. Sushila
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Parmar, Shri D. R.

Parthasarathy, Shri
 Patel, Shri Manibhai J.
 Patel, Shri N. N.
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Prasad, Shri Y. A.
 Radhabai, Shrimati B.
 Raj Deo Singh, Shri
 Rajani Devi, Shrimati
 Raju, Shri D. B.
 Ram Subhag Singh, Dr.
 Rane, Shri
 Rao, Shri J. Ramapathi
 Rao, Shri Thirumala
 Raut, Shri Bhola
 Saha, Dr. S. K.
 Sanji Rupji, Shri
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Shah, Shri Manabendra
 Sharma, Shri D. C.
 Sharma, Shri Naval Kishore
 Shashi Bhushan, Shri
 Shastri, Shri B. N.
 Sheo Narain, Shri
 Sher Singh, Shri
 Shinde, Shri Annasahib
 Shiv Chandika Prasad, Shri
 Shukla, Shri Vidya Charan
 Siddayya, Shri
 Siddheshwar Prasad, Shri
 Sinha, Shri R. K.
 Sinha, Shrimati Tarkeshwari
 Snatak, Shri Nar Deo
 Suryanarayana, Shri K.
 Swaran Singh, Shri
 Uickey, Shri M. G.
 Ulaka, Shri Ramachandra

MR. DEPUTY-SPEAKER : The result* of the Division is : Ayes : 50; Noes : 79.

The motion was negatived

[At 15.00 hours when the Division Bell was ringing one visitor threw some papers from the Visitors' Gallery on the Floor of the House.]

15.06 hrs.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

THIRTY-EIGHTH REPORT

SHRI K. M. Koushik (Chanda):
 I beg to move :

*The following Members also re-corded their votes :—

AYES : Shri Subravelu and Shri K. P. Singh Deo.

NOES : Shri Buta Singh and Shri B. N. Bhargava.