

12.21 HRS.

**CALLING ATTENTION TO MATTER
OF URGENT PUBLIC IMPORTANCE****ASSENT TO PUNJAB APPROPRIATION
BILLS BY GOVERNOR OF PUNJAB**

SHRI HEM BARUA (Mangaldai): I call the attention of the Minister of Home Affairs to the following matter of urgent public importance and I request that he may make a statement thereon:—

"The unconstitutional action of the Governor of Punjab in giving his assent on a copy of the Punjab Appropriation Bill which had not been duly presented to him through the Speaker or Deputy Speaker of the Punjab Assembly."

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN): Sir, according to the information received from the Governor of Punjab, two bills, namely, the Punjab Appropriation Bill 1968 and Punjab Appropriation (No. 2) Bill, 1968 were assented to by him on 22nd March 1968 after they had been passed by both the Houses of the Legislature and had been certified to that effect and also under article 199 (4) of the Constitution, by the Deputy Speaker. However, two spare copies of one of the Bills which had not been signed by the Deputy Speaker were inadvertently put up to the Governor for signature and were accordingly signed by him. Those signatures were later on crossed by Secretary to the Governor who had also initialled on the cuttings. One such copy is with the Legal Remembrancer, Punjab, and the other is missing. The State Government are making inquiries regarding the missing copy.

SHRI HEM BARUA: Although I do not approve of the conduct of the Punjab Speaker and the ladder democracy perpetrated in the Assembly as also the free exchange of blows amongst those legislators as a result of which turbans started flying, may

I know whether the Governor of Punjab has not violated the Constitution and has not acted in a partisan and arbitrary role when he signed a document in relation to the Appropriation Bill which is a money Bill without the signature affixed to that document either of the Speaker or of the Deputy Speaker? The hon. Minister has said in his statement that one of the copies is missing. But may I say that we have a photostat copy of that missing document? And here it is before me. There you do not find the signature of the Deputy Speaker, although whether he is authorised to sign it or not is also debatable but we find the signature of the Governor all right; in anticipation, the date is also overwritten. I may place it on the Table of the House, if you allow it.

SHRI NATH PAI (Rajapur): Yes, he may place it.

SHRI THIRUMALA RAO (Kakinada): The genuineness of the document must be proved first. He cannot put something on the Table of the House as being genuine.

SHRI HEM BARUA: In view of this unconstitutional behaviour of the Governor who has been appointed by the Central Government, may I know whether the Government are going to dismiss him?

SHRI ATAL BIHARI VAJPAYEE (Balrampur): Call him back.

SHRI Y. B. CHAVAN: First of all, there is no question of this Government dismissing the Governor because it is not true that he is acting in an unconstitutional manner.

SHRI NATH PAI: The Chandigarh High Court will decide it.

SHRI Y. B. CHAVAN: We are not the body to decide constitutional issues taking one view or the other of the Constitution

SHRI NATH PAI: The matter is pending before the Chandigarh High Court and let them decide it.

SHRI Y. B. CHAVAN: Even on that matter, I am giving my views; he may or may not accept them. I am giving my view about it. I am only reporting the facts as they were reported to me by the Governor and from the facts it is clear that he did sign a document which was certified by the Deputy-Speaker . . .

SHRI RANGA (Srikakulam): Where is it now?

SHRI Y. B. CHAVAN: But at the same time he inadvertently signed two copies . . .

DR. KARNI SINGH (Bikaner): Why should he sign blank copies?

SHRI HEM BARUA: Why did he sign a blank copy? That means that he is in league with the Chief Minister there.

SHRI Y. B. CHAVAN: He has reported factually what has happened. I leave it to hon. Members to draw their own inferences about it. But these are the facts that he has stated. He has said that he signed those two copies inadvertently one of which is still with the Legal Remembrancer and the other is missing. Possibly the hon. Member has succeeded in getting a photostat copy of that missing copy.

SHRI HEM BARUA: The Home Minister should not try to defend a case that is indefensible.

MR. SPEAKER: The Home Minister has plainly said that he is only giving the facts which have been supplied to him by the Governor and he has never said that he is defending anyone.

SHRI J. B. KRIPALANI (Guns): But facts may be stated in such a way that it turns out to be a defence.

SHRIMATI NIRLEP KAUR (Sangrur): I would have been very happy if I had more time to narrate the facts in regard to what actually happened in Punjab.

AN HON. MEMBER: Let her take her own time.

SHRIMATI NIRLEP KAUR: I am not inclined to agree with the statement which the Home Minister has made just now. But since it is a calling-attention notice I feel that I can only ask questions.

MR. SPEAKER: Let her ask questions only.

SHRIMATI NIRLEP KAUR: The Home Minister has stated that the second copy is missing. The Governor had signed two copies. First of all, when the copies are presented to him with the signature of the Deputy Speaker, only three copies are required to be signed by him. But the Deputy Speaker signed four copies. I would like to know what the fourth copy was for? And for whom that fourth copy was there? Four copies were sent to the Governor, and he signed two extra copies. So, it comes to six copies in all. Out of these six copies, the Home Minister has stated one copy is missing. I would like to tell the Home Minister that the sixth copy which is missing has been obtained by the Opposition and we are in possession of it, and everybody in the Opposition is in possession of a photostat copy of that copy. The fact that we have got that copy may be put down as being due to the incompetence or negligence of the officers.

This type of negligence has occurred before here also; in Pandit Nehru's time, when Mr. Mathai was there, copies were obtained from there also. But no action was taken against those officers.

On the one side we find that the Home Minister is defending the Governor who had acted in such a negli-

gent way; on the other side, those poor officers who have acted in a negligent way are being punished there and action is being taken against them there and they are being harassed by the Chief Minister over there. Have we got different laws for different people in this country? . . .

SHRI PILOO MODY: (Godhra): Of course.

SHRIMATI NIRLEP KAUR: Then, the Home Minister says that the Governor signed it very innocently and inadvertently. I feel that we are not safe in the hands of such a Governor. Today, he has signed two copies and we are a border State and I do not know what next he is going to do innocently over there. Therefore, I would request that let us have some other Governor who is more responsible and who knows his job well.

DR. KARNI SINGH: We learnt the lesson in Rajasthan.

SHRI HANUMANTHAIYA (Bangalore): I rise to a point of order . . .

DR. KARNI SINGH: Let the lady have the answer to her question. The hon. Member should have some chivalry because he comes from Mysore.

SHRI Y. B. CHAVAN: The hon. lady Member seems to know more about it than I do.

SHRI J. B. KRIPALANI: Naturally.

SHRI PILOO MODY: Everybody knows more than he.

SHRI Y. B. CHAVAN: In such matters, yes. As regards taking away official documents from the legitimate possession of people, I think he knows more about it.

SHRI NATH PAI: This was to prove the hon. Minister's guilt only.

SHRI Y. B. CHAVAN: I quite concede that point: I am not sorry for it.

SHRI HEM BARUA: As regards the allegation made by the Home Minister, I would only point out that this was taken out only in order to prove the guilt of the Home Minister and his cohorts.

SHRI Y. B. CHAVAN: He can take pride in such matters; he can do that. I do not want to justify that. My information is this. I am only giving the facts as they have been reported to me, and the facts are as follows. The word 'inadvertently' is not my word; it has been reported that this was what had happened there. I can only report the facts. I do not want to express an opinion.

श्री अटल बिहारी वाजपेयी : आपकी राय क्या है ? राय तो बताइए कि क्या जा कुछ हुआ है ठीक हुआ है ?

SHRI HANUMANTHAIYA: On a point of order. This is a constitutional point and I would beg of the House to hear me patiently for a couple of minutes.

According to my interpretation, this very question is out of order here. I plead on the basis of the constitutional provision. It is ultimately open to you to accept it or not, but I bring it to your notice.

Art. 168 says:

"For every State there shall be a Legislature which shall consist of the Governor."

Therefore, the legislature passing a financial measure and the Governor affixing his signature thereto is a legislative function, because the Governor forms part of the legislature.

Again art. 212 (1) says:

"The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure."

[Shri Hanumanthaiya]

The framers of the Constitution incorporated this article to ensure freedom from interference for the legislatures. We never intended that every contingency imaginable could be covered by any article. But here the intention is definite that no irregularity could be questioned by a court of law, that is to say, they wanted to leave the proceedings of the legislature free from any interference. Therefore, now for Parliament to sit in judgment over an irregularity of procedure, whether in relation to the Governor or a Legislature is something open to question. I think it would be outside the authority vested by the Constitution for us . . . (Interruption) My hon. friend Shri J. B. Kripalani can some restraint and keep silent for some time.

I readily grant that in the article the words 'in any court or Parliament' are not used. But I would appeal to you to look into the spirit of the provision. Some of us, including Prof. Ranga were in the Constituent Assembly. It is not from a partisan point of view that I argue. I hardly take up any partisan attitude on matters of constitutional propriety.

SHRI SURENDRANATH DWIVEDY (Kendrapara): Although he is Deputy Leader of the Party in power.

SHRI HANUMANTHAIYA: Art. 212 protects the proceedings of the legislatures, from interference, be it from court or be it from anyone else. This call attention notice which goes into the intricacies of this signature touches on the procedural question. I think we have to exercise self-restraint and not violate the spirit of the Constitution as embodied in art. 212.

श्री मधु लिमये (मुंगेर) : मैं इसका जवाब देना चाहता हूँ और मुझे एक और प्वाइंट आफ़ ऑर्डर उठाना है।

MR. SPEAKER: The point of order is addressed to me for answer. This is a serious point. But we have been discussing about the Bengal Governor, the Bihar Governor and it is a general thing, not only about the provisions of the Constitution.

SHRI KANWAR LAL GUPTA (Delhi Sadar): He has been criticising the Punjab Speaker himself.

MR. SPEAKER: He has raised a relevant constitutional point. But the point in the call attention is not about the legislature at all. The Governor is competent to sign. He has to sign. That is not questioned. But here the point is that signing of 'blank' copies is not a legislative function. The call attention pertains to something else than the legislative function and all that.

श्री मधु लिमये : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। इसके ऊपर नहीं, मेरा स्वतन्त्र है।

MR. SPEAKER: You may put the question,

श्री मधु लिमये : प्रश्न मैं बाद में पूछूंगा। पहले प्वाइंट आफ़ ऑर्डर है गृह मन्त्री के जवाब के बारे में और उस का सम्बन्ध हनुमन्तैया जी ने जो उठाया उसमें भी है।

MR. SPEAKER: I have given my ruling,

श्री मधु लिमये : मैं आप के फैसले को चुनौती नहीं दे रहा हूँ। आप गृह मन्त्री जी के उत्तर की ओर कृपा करके ध्यान दीजिए। उसमें इन्होंने कहा है :

2 Bills were assented to by him on 22nd March, 1968 after they had been passed by both the Houses of Legislature and had been certified as money Bill and also under Art 194 of the Constitution by the Deputy Speaker.

अब किसी भी प्रश्न के उत्तर को मन्त्री महोदय को असत्य भाषण को फैलाने के लिए इस्तेमाल नहीं करना चाहिए। जिसके बारे में कोई विवाद ही नहीं हो सकता है इस तरह का असत्य भाषण इन को नहीं करना चाहिए। मैं आपका ध्यान 199 (4) की ओर खींचना चाहता हूँ जिस को उन्होंने खुद उद्धृत किया है। वह इस प्रकार है :

199 (4). There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under Article 198, and when it is presented to the Governor for assent under Article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

यह संविधान की धारा है, इन्होंने आगे कहा है

And also under Art. 199 of the Constitution by the Deputy Speaker. अध्यक्ष महोदय, डिप्टी स्पीकर का इसमें नाम तक नहीं है। मैं आपका ध्यान संविधान की धारा 180 की ओर अग्र दिखाना चाहता हूँ कि क्या स्पीकर की जगह डिप्टी स्पीकर यह कर सकता है, शायद यह उनके मन में है, ता 180(1) आप देखिए :

180 (1). While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker or if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose.

क्या पंजाब में स्पीकर का आफिस रिक्त है, बैकट है ? कोई इन सदन में ऐसा सदस्य है जो कह सकता है कि पंजाब में अध्यक्ष की

जगह रिक्त है। तो स्पीकर साहब भी अपनी जगह पर मौजूद हैं और संविधान की धारा 199(4) में यह अधिकार स्पीकर को दिया गया है। अध्यक्ष महोदय, इन्होंने कहा है कि मैं तथ्य बयान कर रहा हूँ। यह तथ्य बयान नहीं कर रहे हैं, यह अपनी राय दे रहे हैं और यह इन्होंने अपनी राय दी है कि डिप्टी स्पीकर ने 199(4) के तहत अपनी स्वीकृति दी है। यह राय है, यह तथ्य नहीं है। इसलिए मुझे सब्त ऐतराज है। गृह मन्त्री जी के जवाब में यह संविधान के खिलाफ जो चीज है इस को आप काट दीजिए। उन के बाद मैं सवाल पूछूंगा।

SHRI Y. B. CHAVAN: You have raised the point of fact. I am only telling the hon. Member that this is not my opinion, I say this because this is what exactly I have got, a copy of how the certificate was given. The Deputy-Speaker himself has said. I certify under Article so and so. I am merely stating facts. I am not giving any opinion.

SHRI RANGA: Sir, it is the duty of the Home Minister to ascertain whether it is according to the Constitution or not. May I know, should he not examine whether it is in conformity with the Constitution or not-

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मुझे एक निवेदन करना है। कोई काल अटेशन दिया जाता है तो क्या गृह मन्त्री का काम खाली पोस्ट आफिस का है ? गवर्नर जो लिख कर देना है वह पढ़ कर सुनाना है ?

SOME HON. MEMBERS rose—

MR. SPEAKER: Will the hon. Members kindly sit down? I am on my legs. I am not giving any ruling. All I would like to say is that off-

[Mr. Speaker]

and I cannot decide this as a side issue. It is a major issue, whether the Deputy Speaker could sign when the Speaker is still there. I think somewhere probably in the courts of law

श्री मधु लिमये : मैंने इस पर आपकी रुलिंग नहीं मांगी है, मैंने कहा है कि तथ्य देने के नाम पर इन्होंने अपनी राय दी है।

MR. SPEAKER: I do not want to express any opinion off-hand on an important legal issue like this which may be fought perhaps in the High Court and in the Supreme Court, and for me to give off-hand a ruling whether it is legal or not, is not proper. I do not think this should come as a side issue. This is a major issue. I am not giving any ruling on this issue. I would now request Mr. Madhu Limaye to ask his question. Whether he should sign or not—on that I am not going to say anything now.

SHRI RANGA: It is a very difficult question.

MR. SPEAKER: Yes, it is very difficult.

SHRI ATAL BIHARI VAJPAYEE: ...made more difficult by the Government now.

श्री मधु लिमये : अध्यक्ष महोदय, इसके बारे में हम लोग बड़ी दुविधा में हैं। अखबारों में खबरें आती हैं कि जब कभी इस तरह की बात होती है तो गवर्नर केन्द्र सरकार से और विशेषतः गृह मन्त्रालय से सलाह मशविरा करता है, कानून मन्त्रालय से बात होती है, लेकिन जब हम यहां सवाल पूछते हैं तो चव्हाण साहब कहते हैं कि मुझे कुछ मालूम नहीं है, गवर्नर ने अपनी जिम्मेदारी पर काम किया है, हमेशा इन का यही जवाब होता है। जरा ईमानदारी से, इस लोक-सभा को विश्वास में

लेना कोई बुरी बात नहीं है, सभी जानते हैं कि आपसे और कानून मन्त्रालय से सलाह मशविरा होता है। मैं जानना चाहता हूँ कि क्या आर्डिनेन्स जारी करने से पहले यानी वित्तीय कार्य को समय पर पूरा करने के लिये विधान सभा की जो स्थगित बैठक थी, उसको उपाध्यक्ष की सदरत में कालू करा कर उसमें जो दो बिल पास किये गये थे और जिन पर हस्ताक्षर किये गये थे—चार बिलों पर किये गये थे, दो पर डिप्टी सीकर के हस्ताक्षर नहीं थे—क्या इन सभी चीजों को करने से पहले गवर्नर ने गृह मन्त्रालय और कानून मन्त्रालय से कोई सलाह मशविरा किया था और क्या कानून मन्त्रालय ने उनको यह कहा था कि ठीक है, आप स्वयंभर कानून पर दस्तखत दे सकते हैं या डिप्टी सीकर की सिफारिश या सम्मति पर दे सकते हैं ? क्या इस तरह का कार्य सलाह मशविरा हुआ था और ऐसे काम की वैधता के बारे में—क्योंकि ये हर चीज पर राय देने हैं, पल प्रधान मंत्री की राय का मामला आया, तो ला-मिनिस्ट्री की सलाह पर कहा गया कि वैल्यू टेकम नहीं लगाया, हर चीज में ला मिनिस्ट्री सलाह देती है—तो मैं जानना चाहता हूँ कि गवर्नर के द्वारा इस तरह का काम करने के पहले संविधान के विपरीत या अनुकूल इस तरह की कोई सलाह आपने या कानून मन्त्रालय ने दी थी ?

SHRI Y. B. CHAVAN: The Governor never asked our opinion about this matter and we have never given any advice to the Governor about it. But after this dead-lock was created, the legal officers of Punjab Government—they will have to see if the Governor's office is quite constitutional and the Government Departments' functions are different—they did consult the law officers here and they advised it is quite constitutional for

the Government to recommend to the Governor to issue an ordinance which he ultimately did.

श्री मधु लिमये : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। इन्होंने कहा है कि गवर्नर का पद स्वतन्त्र है—मैं संविधान की धारा 355 को और आपका ध्यान दिलाना चाहता हूँ—ये कैसे इस में आते हैं—

"It shall be the duty of the Union to protect every State against external aggression and internal disturbances . . .".

यह इन पर लागू नहीं होता आगे वाले को लीजिये—

"...and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

संविधान ने आपके ऊपर यह जिम्मेदारी डाली है, दायित्व डाला है, आप इस जिम्मेदारी से भाग नहीं सकते हैं कि 199 (1) के अन्दर डिप्टी स्पीकर का सर्टिफिकेट कफी है या स्पीकर का ही होना चाहिए—इस के बारे में आपके ऊपर 355 के तहत जिम्मेदारी है, उस से आप भाग नहीं सकते हैं।

256 भी देख लीजिये—

"The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State".

ला को, कानून की, जो परिभाषा है उस में संविधान जो बुनियादी कानून है आ जाता है। मैंने दो धारारों दे दी हैं। इन को डाइरेक्शन देने का भी अधिकार है—256 (2) को देखिए—

"The executive power of the Union shall also extend to . . .

MR. SPEAKER: I am myself getting confused now.

श्री मधु लिमये : इस में कन्फ्यूजन नहीं है, बिलकुल साफ है। इन्होंने कहा है कि गवर्नर का जो पद है, वह स्वतन्त्र है, हम कुछ कर नहीं सकते, मैं इन को कहना चाहता हूँ कि ऐसी बात नहीं है . . .

MR. SPEAKER: I do not think he meant that at any and every stage he can interfere. On this particular issue he said that he had not his own legal advice and legal department. I am afraid you are going away from the point of order.

श्री मधु लिमये : अध्यक्ष महोदय, 355 में मैंने कहा है कि इन का यह कर्तव्य है कि राज्यों का काम संविधान के अनुसार हो। 356 में है कि—

"The executive power of the Union shall also extend to the giving of direction to a State . . ." ये मारी बातें हैं 256 (1) भी है। तो इन को अधिकार है और इन का यह कर्तव्य है। इसलिए अध्यक्ष महोदय मैं जानना चाहता हूँ कि इन्होंने क्या राय दी है—क्या 199 के तहत डिप्टी स्पीकर हस्ताक्षर कर सकते हैं—क्या इस तरह की सलाह आपने गवर्नर को दी है—यह मैं साफ साफ जानना चाहता हूँ। आप अपनी जिम्मेदारी से भाग नहीं सकते हैं।

SHRI H. N. MUKERJEE (Calcutta North East): I want to say in connection with this point of order that we have to ask you to decide the point of order which Mr. Madho Limaye had raised. The President is taking over the administration in different parts of the country and all kinds of hocus pocus are taking place. Who is going to put a stop to this? Mr. Limaye has raised a point of order which goes to the root of the matter. If you do not give us direction in regard to this, if you do not make ob-

[Shri H. N. Mukerjee]

servations in regard to the conduct of the President's rule through the Ministers operating on that side, if you do not do it, where do we go from here? This is a very important point which he has raised and you cannot merely say that this involves constitutional complexities and therefore you will not say anything. You have got to say about the manner in which the President's rule is being carried on in this country.

SHRI RANGA: I am extremely sorry that I have to differ from my hon. friends in regard to this matter. They seem to feel in one way. It is not the business of this House, least of all the Speaker, to try to help this Government to interfere in the affairs of the State Governments and especially the Governor, and to encourage them to such an extent that they should go on giving directions also. The provision for the issue of directions is for exceptional occasions and not for every day. The Governor is not supposed to be the tool of the Government of India although the Government of India has demoralised itself to such an extent and also denigrated the Governor's position to such a degree that today the Governor has been made a kind of chattel under their regime. We certainly cannot expect you to give a ruling here and now that this Government can be expected to go and interfere with the Governor and therefore the Governor has got to be ordered to behave in this manner or that manner. It is another matter; he should have, out of his own self-respect, resigned to maintain his dignity. The Home Minister should have advised his friend the Governor there to offer his resignation and get out of this unfortunate position.

श्री अटल बिहारी वाजपेयी : अध्यक्ष महोदय, मैं आपकी इस बात से सहमत हूँ कि संविधान की एक बड़ी पेचीदा समस्या पैदा

हो गई है उस के सम्बन्ध में आपको निर्णय देना कठिन होगा और हम इस कठिन परिस्थिति में आपको डालना भी नहीं चाहते हैं, लेकिन डिप्टी स्पीकर द्वारा किसी मनी-बिल को गवर्नर के पास भेजने के बाद गवर्नर इस पर हस्ताक्षर करे या न करे—यह प्रश्न केवल पंजाब विधान सभा का नहीं है। यह संसद में भी उठ सकता है और अन्य राज्यों की विधान सभाओं में भी उठ सकता है। इसलिए सरकार के लिए अच्छा यही होगा कि 143 (1) के अन्तर्गत वह सूप्रीम कोर्ट से इस के बारे में राय ले तथा इस मामले का दो-टूक फैसला हमेशा के लिए कर दे। गृह-मंत्री ऐसा क्यों नहीं कर रहे हैं— मैं यह समझने में असमर्थ हूँ।

MR. SPEAKER: This is about the Calling Attention in respect of the Governor's signing an extra copy.

SHRI MADHU LIMAYE: "Duly".
Mark the word.

MR. SPEAKER: It is all right. The points of order raised cover a wide field; the whole Constitution, the powers of the Speaker, the powers of the Deputy-Speaker, the powers of the Home Minister and the powers of the Governor. I do not think they are relevant here. Of course they are very big issues. I now call upon Shri F. A. Ahmed to lay the papers on the Table.