

12.48 hrs.

ESTIMATES COMMITTEE  
MINUTES

SHRI THIRUMALA RAO (Kakinada) : I beg to lay on the Table Minutes of the Seventh, Sixteenth, Seventeenth and Thirty-fifth sittings of the Estimates Committee relating to the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment)—Employees' Provident Fund Organisation.

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, यह जो लगातार रिपोर्ट आती हैं उनके बारे में मैं कहना चाहता हूँ कि पब्लिक अण्डरटेकिंग्स कमेटी के द्वारा जो रिपोर्टें देनी हैं हल्दिया, बरोनी रिफाइनरी के बारे में उनके सम्बन्ध में आप चेयरमैन को आदेश दीजिये कि वह जल्दी दें। मिनिस्टर साहब कहते हैं कि जब तक रिपोर्ट नहीं आयेगी, मैं कुछ नहीं करूंगा।

12.49 hrs.

MATTER UNDER RULE 377  
APPOINTMENT OF ADVISERS TO WEST BENGAL  
GOVERNOR

SHRI JYOTIRMOY BASU (Diamond Harbour) : Sir, under Rule 377, I beg to mention the following.

The Governor of West Bengal, under the President's rule has delegated his powers to five of his newly-appointed advisers, giving the people to understand that they are forming a mini-cabinet and portfolios have been distributed amongst the said advisers. The Governor for himself has retained judicial and legislative departments and matters relating to the high court. Shri M. M. Basu, the Chief Secretary, who is one of the advisers, has revealed that the Governor will preside over the regular meetings of the advisers almost on the same lines as the cabinet meets.

The Parliament, under Article 356(a), has

conferred on the President the power to delegate subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf. But there is no provision of authority for the Governor to delegate his powers to the advisers or any body else to act in his behalf. It could, therefore, be maintained that the steps taken so far by the Governor in appointing his advisers and empowering them and allotting portfolios to them are without authority and completely outside the jurisdiction.

In Article 356 of the Constitution which empowers the President to assume by a proclamation to himself or any of the functions of the Government of the State, it is clearly stated.

"Provided that nothing in the clause shall authorise the President to assume to himself any of the powers vested in or exercisable by the High Court or to suspend in whole or in part the operation of any provisions of this Constitution relating to High Court."

We note in this regard that the Governor, Mr. Dhavan, has retained for himself judicial and legislative departments and matters relating to the high court. This is a flagrant violation of the provisions of the Constitution which governs the imposition of the President's rule in West Bengal.

It is also clear under what provisions of the Constitution the Governor is entitled to appoint Advisers. Article 309 is the only article providing for recruitments and conditions of service of persons serving the Union or the State. Selection of these advisers are under the circumstances unconstitutional, irregular and without any authority. The selection of these advisers and fixation of their terms of service and remuneration is arbitrary and without any sanction of law and is therefore untenable.

श्री मधु लिमये (मुंगेर) : हिन्दुस्तान स्टैंडर्ड में मैंने कल पढ़ा कि चीफ सेक्रेटरी पद

[श्री मधु लिमये]

के लिए जिस व्यक्ति को नामजद करने के लिये केन्द्रीय सरकार द्वारा कहा गया था उस व्यक्ति को नामजद करने से गवर्नर ने इन्कार कर दिया है। अभी तक राष्ट्रपति के अधिकारों को डेलीगेट करने का कोई विधेयक इस सदन ने पास नहीं किया है। इसका मतलब है कि जो कार्यपालिका के अधिकार हैं वे राष्ट्रपति के पास हैं और जो विधान सभा के अधिकार हैं वे इस सदन के पास हैं। ऐसी हालत में यह मनमाने ढंग से गवर्नर क्यों कर रहा है। गवर्नर की तो कोई हस्ती नहीं है क्योंकि 356(ए) में कहा गया है :

SHRI SAMAR GUHA (Contai): The Governor has given a contradiction in today's paper.

श्री मधु लिमये : वह तो ठीक है। लेकिन गवर्नर के कंटेडिक्शन से मुझे कोई मतलब नहीं है। हम इन चीजों का खुलासा केन्द्रीय सरकार से चाहते हैं।

MR. SPEAKER : If you wanted to raise it, you should have given notice.

श्री मधु लिमये : कालिग एटेंशन बलग से दे दिया है मैंने।

MR. SPEAKER : Mr. Basu has raised it under Rule 377. Let the Minister reply.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA) : Sir, Mr. Jyotirmoy Basu has completely misread Article 356(1)(a). It has nothing to do with delegation of powers to the consultative committee or to Parliament or to anybody. Article 356(1)(a) says :

"(a) assume to himself all or any of the functions of the Government of the State and all or any of the powers vested in or exercisable by the Governor or any body or authority in the State other than the Legislature of the State."

So, it has nothing to do with what the hon. member has said in his letter that Parliament, under Article 356(a) has conferred on the President the power to delegate subject to such conditions as he may think fit to impose, the power so conferred to any other authority to be specified by him in that behalf. Article 356 has nothing to do with this particular matter.

The other point he has raised is regarding the powers of the High Court. It is very plain that when the Governor says that he has got the judicial and legislative departments and matters relating to High Court, he is not reserving the powers of legal adjudication of the High Court to himself. He is only taking over the legislative and judicial departments which relate to certain executive matters. For instance, in the Central Government, there are certain matters relating to executive matters of the Supreme Court. It does not mean that the person who deals with the judicial department in the Ministry of Home Affairs has got the powers of the Supreme Court himself. Therefore to say that the Governor has reserved to himself the judicial and legislative powers of the High Court is completely wrong. There is no substance in it. The powers of the High Court are intact. They have not been taken away nor can they be taken away. Here the only point is the executive charge of the judicial and legislative departments would be with the Governor and not with one of the Advisers.

His third question was, under what authority the Governor has appointed these Advisers and how the portfolios were allocated. Article 166(3) clearly relates to the powers of the Governor to regulate the business of the Government by making rules, etc. Thereby he can designate officers to discharge certain duties of the State. Therefore, under these powers given to him by Article 366(3) these arrangements have been made by the Governor and there is nothing unconstitutional or wrong in whatever arrangements he has made in Bengal.

SHRI K. LAKKAPPA (Tumkur) : Sir, there are serious charges against the present

Mysore Ministry and my party legislators have submitted a memorandum to the Prime Minister.....

MR. SPEAKER : I have not allowed it.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : There is nothing on the agenda. Why are you permitting it? He should not be allowed to speak.

SHRI SURENDRANATH DWIVEDY (Kendrapara) : I thought he sought your permission to raise this matter.

MR. SPEAKER : No, I disallowed it. I think he has already said enough. I cannot allow him any more. It is a State matter.

SHRI K. LAKKAPPA : I want to know whether any independent inquiry would be conducted.....(Interruptions).

SHRI HEM BARUA (Mangaldai) : Corruption is corruption, whichever party may commit it. There were charges against Shri Nijalingappa when he was the Chief Minister. There was no enquiry. Now there are charges against the present Ministry.

SHRI CHENGALRAYA NAIDU (Chittoor) : Sir, you should not allow this discussion to go on.

MR. SPEAKER : We will now take up the Demands for Grants.

श्री एस० एम० जोशी (पूना) : अध्यक्ष महोदय, कल गृह मंत्री जी ने कहा था कि टम्पल जॉज आदमी के बारे में वह पता लगा कर बतायेंगे कि वह सही आदमी है या नहीं।

अध्यक्ष महोदय : उसका वह पता लगा रहे हैं। वह आ जाएगा।

SHRI JYOTIRMOY BASU : Sir, about Bengal the Minister has not given a clear reply as to how the Governor derived his powers.

12.58 hrs.

DEMANDS FOR GRANTS, 1970-71—Contd.

MINISTRY OF EDUCATION AND YOUTH SERVICES  
—Contd.

श्री शं० ब० शीक्षित (खंडवा) : अध्यक्ष महोदय, हमने जो प्रणाली अपनायी है वह केवल एक शासन प्रणाली ही नहीं, लोकतंत्रीय प्रणाली ही नहीं है बल्कि एक जीवन प्रणाली भी है। उसमें व्यक्ति का विकास होता है। व्यक्ति के विकास के लिए यह आवश्यक है कि समाज के प्रत्येक आदमी को सुशिक्षित बनाया जाए। प्रजासत्तात्मक प्रणाली के अन्तर्गत समाज के लोगों के जो मूलभूत अधिकार होते हैं, उनका वे तभी और उसी हालत में सदुपयोग कर सकते हैं जबकि वे शिक्षित बनें और आपस में मिल कर कोई निर्णय लें।

MR. SPEAKER : He may continue his speech after lunch.

MATTER UNDER RULE 377—Contd.

APPOINTMENT OF ADVISERS TO WEST BENGAL GOVERNOR—Contd.

MR. SPEAKER : I want to inform Jyotirmoy Basu that I saw the matter which he gave under article 377 in the press this morning. He must be aware that the rules do not permit that until it is raised in the House. I would request all hon. Members to follow this rule.

SHRI JYOTIRMOY BASU : (Diamond Harbour) : I wrote a letter to the President one day earlier.

श्री मधु सिन्घे (मुंजर) : इस तरह की खबरें तो आती रहती हैं। जब तक टेक्स्ट पब्लिश नहीं होता तब तक आपको एतराज नहीं करना चाहिये।

MR. SPEAKER : After all, we have certain rules to follow. It does not look nice not to follow them.