

[Dr. Sushila Nayar]

Table a copy of the Drugs (First Amendment) Rules, 1962 published in Notification No. G.S.R. 984 dated the 21st July, 1962, under sub-section (3) of section 33 of the Drugs Act, 1940. [Placed in Library. See No. LT-380/62].

ARMS RULES

The Minister of State in the Ministry of Home Affairs (Shri Datar):

Sir, I beg to lay on the Table a copy of the Arms Rules, 1962, published in Notification No. G.S.R. 987 dated the 28th July, 1962, under sub-section (3) of section 44 of the Arms Act, 1959. [Placed in Library. See No. Lt-381/62].

CONCLUSIONS REACHED AT THE CONFERENCE OF STATE MINISTERS IN CHARGE OF BACKWARD CLASSES

The Deputy Minister in the Ministry of Home Affairs (Shrimati Chandrasekhar): Sir, I beg to lay on the Table a copy of Record of conclusions reached at the Conference of State Ministers in charge of Backward Classes held in New Delhi on the 26th and 27th July, 1962, on the Report of the Scheduled Areas and Scheduled Tribes Commission. [Placed in Library. See No. LT-382/62].

12.10 hrs.

SUSPENSION OF PROVISO TO RULE 66

The Prime Minister and Minister of External Affairs and Minister of Atomic Energy (Shri Jawaharlal Nehru): Sir, I beg to move:

"That the proviso to Rule 66 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motions for taking into consideration and passing of the Constitution (Thirteenth Amendment) Bill, 1962, and the State of Nagaland Bill, 1962, be suspended."

Under the proviso to this Rule, if a Bill be dependent on another Bill, such Bill cannot be taken into consideration and passed until the enactment of the other Bill. This proviso may, however, be suspended under Rule 388 of the Rules of Procedure.

It will be noticed from clause 2(f) and from clause 11 of the State of Nagaland Bill that there is a reference to the regional council which is provided for in sub-clause (d) of clause (1) of article 371A, proposed to be inserted in the Constitution (Thirteenth Amendment) Bill, 1962. The State of Nagaland Bill is thus dependent upon the Constitution (Thirteenth Amendment) Bill. On the other hand, the Constitution (Thirteenth Amendment) Bill is also dependent on the State of Nagaland Bill, as will be seen from the *Explanation* at the end of the proposed article 371A in the Constitution (Thirteenth Amendment) Bill. Apart from this, there are references throughout the proposed new article 371A in the Constitution (Thirteenth Amendment) Bill to the State of Nagaland, Legislative Assembly of Nagaland, the Governor of Nagaland, etc., which can come into being only by virtue of the State of Nagaland Bill when enacted and brought into force. From all this, it will be seen that one Bill is dependent on the other, so that the two Bills may be said to be inter-dependent.

If the passing of the State of Nagaland Bill is deferred till after the Constitution (Thirteenth Amendment) Bill, 1962, has been passed by the Houses of Parliament, (and ratified by the legislatures of not less than 8 of the States under the proviso to article 368, as it affects articles 54 and 55 and some other entrenched provisions), it would not be possible to take preliminary steps, such as delimitation of assembly constituencies. This would be contrary to the desire of the Government that all such preliminary steps should be taken up

early. I may mention here that the ratification of the Constitution (Thirteenth Amendment) Bill will naturally take sometime, because the State Legislatures may not be in a position to meet for sometime.

Under the circumstances, I propose that the House may agree to the suspension of the proviso to Rule 66.

Mr. Speaker: Motion moved:

"That the proviso to Rule 66 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motions for taking into consideration and passing of the Constitution (Thirteenth Amendment) Bill, 1962, and the State of Nagaland Bill, 1962, be suspended."

Shrimati Renu Chakravartty (Barackpore): Sir, the proviso is sought to be suspended on the understanding that the Constitution has to be amended first as certain clauses in the Nagaland Bill will impinge on the Constitution. I find that it is the other way round. Unless we pass the Nagaland Bill it cannot be done. Since the two are so interlinked as stated by the Prime Minister himself, I think it would be wrong to ask for suspension of the rules. Such a procedure should not be undertaken unless it is absolutely necessary. It is something very serious to suspend the rules and I would like to have your ruling about this matter, before you put this to the vote of the House.

Mr. Speaker: I think she is posing me a question.

Shrimati Renu Chakravartty: The question is whether it is necessary for us to suspend the rules at all. The two are inter related: one impinges on the other. Is it necessary for us to go out of our way to suspend the rules?

Mr. Speaker: This question was discussed the other day also, when the Bills were being introduced. It was contemplated under rule 66 that one Bill was dependent of the other. I

said whether there is a Bill which we might call independent, and the other dependent so that when the independent Bill was passed first, the dependent Bill might be taken up. Here both are interlinked, as the hon. Member also said and there is no way out unless we suspend the rules. I think we cannot proceed unless we suspend the rules. So, it is desirable, I put the motion to the vote.

Shri U. M. Trivedi: (Mandsaur): May I make one submission? The hon. Member, Shrimati Renu Chakravartty, said that this is a Bill somehow or other interwoven with the State of Nagaland Bill. My submission is that it is not so. This is a Bill which is entirely dependent upon the passing of the State of Nagaland Bill. That is why, at the stage of introduction, this question was taken up and it was pleaded that the State of Nagaland Bill was the main Bill and the Constitution (Thirteenth Amendment) Bill was a dependent Bill. It is so by virtue of the language which is being used, because the change that has been introduced by the addition of article 371A contemplates the passing of a Bill with reference to the State of Nagaland. The State of Nagaland can only come into being by the passing of the State of Nagaland Bill. So, unless and until the State of Nagaland Bill is passed this provision which is to be made in the Constitution cannot come into play.

Mr. Speaker: Can we pass the State of Nagaland Bill without amending the Constitution?

Shri U. M. Trivedi: We can pass the State of Nagaland Bill first,—

Mr. Speaker: Can we pass the State of Nagaland Bill without amending the Constitution?

Shri U. M. Trivedi: We can pass the State of Nagaland Bill first. It is not necessary that the amendment of the Constitution should be made first. Of course, an amendment of the Constitution can only be made by following

[Shri U. M. Trivedi]

a particular type of provision; it can be made only by that procedure, by virtue of the fact that a particular type of voting is to be followed.

Mr. Speaker: He does not answer my question.

Shri U. M. Trivedi: Your question is that of a lawyer asking, a question during cross-examination. My difficulty is, I will have to give you a reply which occurs to me. The State of Nagaland Bill makes some provisions. It does not say that it changes the Constitution at all. What the State of Nagaland Bill says is that a new State is to be formed. The amendment of the Constitution is consequent upon the passing of the State of Nagaland Bill. Unless and until the State of Nagaland Bill is passed, the words "State of Nagaland" do not come into being, and unless the State of Nagaland comes into being—these three words—the amendment of the Constitution will not be necessary.

Another reason why I object to the suspension of the rule is this. The main discussion that has to be gone into by the House is in the consideration stage of the State of Nagaland Bill; it is a very important consideration. Then, a change in the Constitution through the constitution (Thirteenth amendment) Bill is a foregone conclusion. Otherwise, there is no force in the argument that can be advanced in the State of Nagaland Bill. Therefore, my submission is that the rule should not be suspended.

Mr. Speaker: Shri Kamath. Is he going to speak on the same point?

Shri Hari Vishnu Kamath (Hoshangabad): Yes, Sir. Mr. Speaker, Sir, I submit that the motion just now made by the Prime Minister is open to objection on more than one ground. Let me say at the outset that I shall seek, though on a more modest and

humble scale, to apply those methods of cold and rigorous logic for which the Mimamsakas of ancient India were famous. I invite your attention and the attention of the House to a ruling or an observation which you gave on the 21st of this month, last Tuesday, when this matter was raised at the introduction stage. Here, by your leave, I may read a part of that ruling which must be borne in mind before we proceed further with the arguments.

I am reading from the uncorrected transcript of the proceedings. This is what you said then:

"There are two things in regard to this Bill. In regard to these two Bills, one is not dependent on the other but each is dependent on the other; both are dependent; there is no Bill here which we can call independent. In this case, there is this difference."

"Secondly,"—you were kind enough to observe, "it can be introduced in the House in anticipation of the passing of the other."

Then you said: "Introduction is not barred". And, it was done, and rightly so in your judgment. You went on to say: "When we come to the consideration stage if there are two Bills and one is dependent on the other, then certainly that objection can be taken. It can be introduced in anticipation of the passing of the Bill on which it is dependent. If both are dependent on each other,...." This is a very fine question that you formulated. You said: "If both are dependent on each other, and if one has to be introduced the second one would follow. What should be the procedure for that?" That is the question you asked. Then you went on to say: "If one were dependent on the other, certainly I would first see that the one that is independent must be introduced first and then it would be

followed by the second. But in the present case both depend upon each other and therefore there is this distinction."

Now, may I submit, that unfortunately for us, for the House, there is no rule in the Rules of Procedure to deal with inter-dependent Bills as in the case of inter-dependent amendments. We have got a rule, Sir, for inter-dependent amendments, but there is no rule, so far as I am aware, to deal with inter-dependent Bills as in the present case. And, it may be, therefore, that this is without precedent in the history of free India's Parliament. Therefore, I would earnestly ask you to consider this matter, more profoundly than it was done last Tuesday, because, Sir, you will be up against one or two difficulties if this motion, which has been moved by the Prime Minister, is accepted by the House and we proceed with the consideration of the Bill.

The objection raised by my hon. friend, Shri Trivedi, is very valid. I mentioned it that day at the introduction stage, but as it was the introduction stage I did not press it very firmly. But may I invite your attention to this provision of article 4 of the Constitution? I submit, Sir, that the State of Nagaland Bill can be and must be passed first because under clause (2) of article 4 it is said: "No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368." Therefore, the State of Nagaland Bill can be passed without the Constitution being amended because this clause (2) of article 4 of the Constitution makes it clear that it does not require an amendment of the Constitution at all, and the amending Bill that is before the House seeks to insert certain new provisions in the Chapter "Temporary and Transitional Provisions" of the Constitution. But the State of Nagaland Bill must be and should be considered

and passed first. Otherwise there is no help, there is no way out of it. It is not an amending Bill under article 4 of the Constitution and unless that Bill is passed the House cannot rightly take up the consideration of the Constitution (amendment) Bill.

Mr. Speaker: The hon. Member is of the opinion that the State of Nagaland Bill can be passed without amending the Constitution.

Shri Hari Vishnu Kamath: Exactly, Sir, that is my opinion. May I submit, Sir, therefore, that, carrying this argument further, there is no rule for inter-dependent Bills or there is no proviso for inter-dependent Bills.

Mr. Speaker: Where there is no rule, I can regulate the procedure.

Shri Hari Vishnu Kamath: You can regulate the procedure, I know.

Mr. Speaker: There is no difficulty about that. Where there is no provision I can regulate the procedure and, therefore, there ought not to be any difficulty on that account.

Shri Hari Vishnu Kamath: I bow to your ruling. I know you have the fullest powers in the matter. I am equally confident that sitting there in that high chair under the canopy illumined by the Dharma Chakra you will not be swayed by consideration of inconvenience or embarrassment to the Government. I am confident—I not only hope—that you will not be swayed by considerations of inconvenience or embarrassment to the Treasury Benches. Therefore, in that spirit I appeal to you.

Mr. Speaker: If he has those fears, then I am very sorry.

Shri Hari Vishnu Kamath: I said I am confident to the contrary.

Mr. Speaker: I have heard him.

Shri Hari Vishnu Kamath: I have one more point. I find that some hon. Members are laughing. This is no matter for laughter, because the Rules of Procedure have been framed by Members of this House. And, they are laughing at this. This is hardly proper. Because, as I said the other day, an attitude of indifference or a lackadaisical attitude towards the rules framed by the House is dangerous to the growth of parliamentary institutions in the country. I am not a stickler for rules. I do not think the rules are sacrosanct.

Mr. Speaker: What is the next point?

Shri Hari Vishnu Kamath: The next point is about the proviso sought to be deleted or suspended just because of the tail piece, the tail piece of the proviso which deals with the assent by the President. That is a big hurdle which the Treasury Benches are up against assent by the President; and the Prime Minister has, if I heard him aright, in his edifying and instructive speech in making the motion, rightly stated that the provisions of one Bill—I forget which one—cannot be considered or cannot be brought into play unless the provisions of the other are brought into force. Now, mark the words “brought into force”—I wish I had a copy of the speech which he made; it was a written text; I wish I had a copy but, unfortunately, I do not have it “brought into force”. What is “brought into force”? A Bill cannot be brought into force unless assented to by the President. Now, the Treasury Benches, I am sorry to say, presume, but presume not too much perhaps, that the President will give assent as a matter of course. They may be right in assuming so in the present state of things; they may be right, and I do not quarrel with their stand. But, is it not—I will not say ‘an indignity’—certainly a manner of trifling with the privileges and powers of the President?

The Minister of Law (Shri A. K. Sen): May I say that there should

not be any discussion about the President here?

Shri Hari Vishnu Kamath: It is a purile objection.

Mr. Speaker: Even if there be an apprehension that it would not be assented to, why should the Government not proceed with the Bill. Whether the President assents to it or not that is for him to decide, but the Government has to do its duty.

Shri Hari Vishnu Kamath: Please listen to me. Now, suppose this Bill which is sought to be passed, the Constitution (Thirteenth Amendment) Bill, is vetoed by the President in other words, if the President does not give his assent, or if he sends it back to the House, the other Bill would have to be re-opened, the State of Nagaland Bill would have to be re-opened, which would be a waste of time of the House. Therefore, I would suggest...

Mr. Speaker: Can Government get a pre-assurance from the President?

Shri Hari Vishnu Kamath: Therefore, they should be considered independently. I would request the Prime Minister to proceed with the Bills as if they are independent Bills. They can take up one Bill, this Bill, if they feel that it is not dependent the State of Nagaland Bill, or the State of Nagaland Bill could be taken up in the light of the articles of the Constitution. One of the Bills should be passed first, it can go to the other House and after both the Houses have passed it in three or four days, by next week end we can get the other Bill also passed in this House.

Mr. Speaker: Would the hon. Law Minister like to say something on this?

Shri A. K. Sen: We have listened with very great respect, as we usually do, to the objections raised by Shri Kamath. But, you will excuse me,

Sir, if I were to say that we have not been convinced at all by his objection. A cursory glance at the provisions of the Nagaland Bill will show that we are not merely setting up a State with an ordinary Legislature with the ordinary powers that a State Legislature possesses. We are setting up a Legislative Assembly which has certain limited powers, as mentioned in article 371A, which is proposed to be inserted by the Constitution (Thirteenth Amendment) Bill. You will notice that clause (1) (b) of that contemplated article says:

“the Governor of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland.....”

This would be a provision which will have to be there, and a mere Bill, a mere law, under article 3 will not serve the purpose. Then the proviso on page 2 of the Bill, after clause (b), which says:

“Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility.....”

that provision has also to be inserted.

Then there is clause (d). The whole of it is different from an ordinary State and an ordinary legislature.

Then clause (2) on page 3, says:

“Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of the State of Nagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,—”

Then, the laws of Nagaland will not apply automatically to the Tuensang District.

On page 4 of the Bill you will find clauses (e) and (g). These are fet-

ters imposed by the Constitution (Amendment) Bill on the State which is going to be set up under article 3 and that can only be done by an amendment of the Constitution.

Then, the election to the legislature under clause (g) will be under a different system. That will need not only an amendment of the Constitution of an ordinary nature but an entrenched clause necessitating reference to the States.

Therefore the State of Nagaland Bill cannot be proceeded with unless we pass the Constitution (Amendment) Bill. At the same time, as the hon. Prime Minister has already indicated, the Constitution (Amendment) Bill is also dependent on the other Bill because it talks of Nagaland, the laws passed by the new Nagaland Legislative Assembly, votes on demand and various other financial provisions, the legislature and elections to the legislature. That means that unless Nagaland is set up, this will be meaningless, because the whole of it presupposes the Nagaland State to be set up under the provisions of the Constitution. That is why it is a case where an objection will be raised whichever Bill we take up first. As a matter of fact, you will remember, Sir, that Shri Kamath himself raised it when the Bill was introduced. He raised this very point on which he has gone back now. Whichever Bill you take up, this point will be raised, namely, that it is dependent on the other and therefore we cannot proceed with it until the other Bill is passed and assented to by the President.

Shri Tyagi (Dehra Dun): Which rule of the Rules of Procedure comes in the way?

Shri A. K. Sen: Rule 66. But the Rules of Procedure of any assembly like this or of any authority are not ends in themselves. They are meant to serve a purpose. If the purpose is to secure to the people of Nagaland what this Parliament has declared its intention and policy to be. I do not

[Shri A. K. Sen]

see how the Rules of Procedure should be so sacrosanct that they are to be treated as final.

Shri Hari Vishnu Kamath: I said that they are not sacrosanct. Only, you should have some regard for the Rules.

Shri A. K. Sen: The Rules are not sacrosanct.....

Shri Hari Vishnu Kamath: They are sacrosanct for us, not for you!

Shri U. M. Trivedi: Sir, will he kindly refer to article.....

Mr. Speaker: Has he raised a point of order that the hon. Prime Minister cannot move this motion, or is he of the opinion that no suspension of the rule is needed?

Shri U. M. Trivedi: No suspension is needed.

Mr. Speaker: That is all right. I understand that. I need not wait for anything now. There is no point of order that the motion cannot be moved. The motion has been moved that one rule be suspended and it is only the opinion of some hon. Members that it need not be suspended. So, this is a question to be decided by the House itself by a vote whether the rule should be suspended or not. Whether it goes against the Constitution, or has otherwise some effect on it, or is *ultra vires* of the Constitution is something that the courts can decide. I am not called upon here to give any ruling on that.

It is clear that a motion has been moved under rule 388 of the Rules of Procedure that a particular rule be suspended and I have only to put that motion to the House because nothing is said that this motion cannot be moved. So, I am putting it to the House and it is for the House to decide whether to accept it or not.

Shrimati Renu Chakravartty: There is only one point. From the com-

monsense point of view first the State of Nagaland Bill should be discussed because we may make certain amendments in it which may need further amendments in the Constitution. Whatever is passed under the State of Nagaland Bill will have to find a reflection and substance in the Constitution. Therefore, is it not more logical to discuss that and get the opinion of this House on the State of Nagaland Bill than to pre-suppose what the nature of that Bill will be and amend the Constitution prior to the passing of the State of Nagaland Bill? That is my point.

Shri Frank Anthony (Nominated—Anglo-Indians): Sir, I do not mean and I do not say that we will not, because presumably the ruling Party will get it through, but technically, as I heard the hon. Law Minister mention, you have to amend article 371 of the Constitution because we are contemplating giving special powers to the Governor. Are we not jumping over the fence? Are we not assuming that in the subsequent Bill, this House is bound to give special powers to the Governor? Suppose they reject the clause, the whole amendment will be otiose. That is the only difficulty. First you put the Constitution Amendment Bill assuming that certain provisions will be passed there. Suppose the House in its wisdom does not pass it, the whole thing will be otiose.

Mr. Speaker: Is he of the opinion that we can pass the Nagaland Bill without suspension?

Shri Frank Anthony: Yes.

Shri Tyagi: After all....

Mr. Speaker: Order, order.

श्री रामेश्वरानन्द (करनाल): अध्यक्ष महोदय

अध्यक्ष महोदय : स्वामी जी, आप इस में क्या कहना चाहते हैं। आप जो सुनना चाहते

4497 *Suspension of BHADRA 6, 1884 (SAKA) Constitution (Thirteenth Amendment) Bill and Proviso to Rule 66* *State of Nagaland Bill*

हैं उसको सुनने में मुझे कोई उज्र तो नहीं है, पर मुझे यही डर है कि इसके सम्बन्ध में नहीं होगा ।

श्री रामेश्वरानन्द : मैं इसी के सम्बन्ध में कहूंगा, और कोई दूसरी बात नहीं कहूंगा । प्रथम बात तो यह है कि यह विधान अनेक बार बदला जा चुका है और अब इसको फिर बदलने का यत्न किया जा रहा है ।

अध्यक्ष महोदय : यह दूसरी बात है ।

श्री रामेश्वरानन्द : मेरी बात मुन तो लीजिये । आज जो संशोधन पेश किया जा रहा है वह इसलिये है कि नागालैंड बने और उसके लिये यह यत्न किया जा रहा है कि यह बिल पास हो । मैं कहना चाहता हूँ कि अपने बनाये हुए विधान को इस प्रकार बार बार बदलना ठीक नहीं । यह कोई रबड़ की नाक तो है नहीं जिसको इस प्रकार बदला जा सकता है ।

दूसरी बात मैं यह कहना चाहता हूँ कि एक महत्वपूर्ण विषय सदन के सामने पेश है । इसलिये जो तर्क उपस्थित किये गये हैं उनको हिन्दी में भी बताया जाना चाहिये । यह कोई इंग्लैंड की पार्लियामेंट तो नहीं है ।

अध्यक्ष महोदय : यहां सारा काम अंग्रेजी में होता है इसलिये हम उसकी चर्चा अंग्रेजी में कर सकते हैं । अब आप तशरीफ रखिये । आप कानून में भी दखल देते हैं ।

My intention was that motion might be made of both the Bills after suspending the rules; discussion might be had together of both so far as the consideration stage is concerned. Afterwards, we can put the question to the House first of the Nagaland Bill and then we can put the second after that. That was how I intended to proceed and that is the only procedure we can follow here. So far as suspension is concerned, why should there be objection about that? Sus-

1647(Ai) LSD—5.

pension might be allowed and we can proceed then taking both together.

Shri Hari Vishnu Kamath: The rule does not apply to the present case.

Mr. Speaker: Now, I put the question. The question is:

“That the proviso to Rule 66 of the Rules of Procedure and Conduct of Business in Lok Sabha in its application to the motions for taking into consideration and passing of the Constitution (Thirteenth Amendment) Bill, 1962 and the State of Nagaland Bill, 1962, be suspended.

The motion was adopted.

Mr. Speaker: The Motion is adopted and the rule suspended.

12.38 hrs.

CONSTITUTION (THIRTEENTH AMENDMENT) BILL AND STATE OF NAGALAND BILL

The Prime Minister and Minister of External Affairs and Minister of Atomic Energy (Shri Jawaharlal Nehru): Sir, I have followed with great interest the preliminary center of some hon. Members of the Opposition. I confess that I was impressed by the volume of sound but not by the sense. Because, as you have been pleased to say, these two Bills are wholly and absolutely interdependent. Now, if the hon. Member Shri Hari Kamath's views are to prevail, it becomes impossible for us to deal with the question or give effect to our agreement with the Naga Convention in regard to the Bill. It will be an extraordinary position if an argument is raised on the basis of some rule—I do not think the argument is correct—that we cannot move at all in the direction we want to: that is presuming that this House wants to go that way, but it cannot.

Shri Hem Barua (Gauhati): We have closed that chapter. Why does he make reference to that?