

(Saka) Under Rule 388

12.20 hrs.

MOTIONS RE. UNDER RULE 388 RESOLUTION ON INDIA QUITTING THE COMMONWEALTH

The Deputy Minister in the Ministry of Law (Shri Jagannatha Rao): Sir, the other day I was submitting about the true scope of rule 388. The scope of rule 388 is much wider because the clause "a particular motion before the House" in this rule does not necessarily mean an item of business listed for the day. I give an analogy. When we say that a suit or proceedings is pending in a court, it means "the suit or proceedings which is pending in a court not disposed of". Likewise, if a Bill or a Resolution has been introduced in this House and partly discussed, not fully disposed of, it must be taken to be a matter before the House.

I am fortified in this interpretation by looking to rule 31. I invite your attention to rule 31 which refers to List of Business. Rule 31(1) says:

"A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member."

Sub-rule (2) says:—

"Save as otherwise provided in these rules, no business not included in the list of business for the day shall be transacted at any sitting without the permission of the Speaker."

If it was the intention of the framers of the rule to give a limited construction to the clause "business before the House", the same wording which they used in rule 31 would have been used there.

Secondly, I refer to rule 376 which relates to Points of Order. Rule 376, sub-rule (2) says:—

"A point of order may be raised in relation to the business before the House at the moment."

The words "at the moment" in rule 376, sub-rule (2), are absent in rule 388.

Sir, if you read these three rules in juxtaposition, the interpretation would be that rule 388 is much wider in scope. You must take the entire rules together because it is a self-contained code. Any interpretation that we seek to put on one rule should not render the operation of other rules nugatory. That is the cardinal principle of harmonious construction of statutes. So, if the wider connotation which I give about rule 388 is accepted, it refers only to jurisdiction that would vest in you—not that I plead for a moment that Shri Tiwary's motion should be accepted. The discretion is entirely yours. Unless you have jurisdiction, you cannot consider that there is a motion at all. So, it is for you to consider whether you are bound to suspend the operation of rule 30(2) or the entire rule 30.

Shri Azad's Resolution certainly comes under rule 30(2) because it was adjourned *sine die*, which requires that he should give notice and then it must stand in a queue for a ballot. If he had given notice, if in the ballot his Resolution had come and stood last in the list and if an application had been made either by himself or by any other Member, perhaps it would have been much easier for you to give a decision; but, in this case there is no question of a notice—he has not given a notice—much less the question of ballot arises. Therefore the discretion is entirely yours. But my interpretation is that you have jurisdiction to consider the motion. Whatever decision you give it is entirely your discretion.

Mr. Speaker: If once the House takes a decision that further discussion on one item that is before it be adjourned *sine die*, if that motion is carried, does it go off from the business of the House of that day or is it there?

Shri Jaganatha Rao: It is still pending in the House, though not for the day. Rule 31 refers to the business for the day. This is not business for the day—I do not contest it for a moment—it is business, nevertheless, before the House. "Before the House" does not mean "in front of the House". For "in front of the House" rule 31 is there, that is, business listed for the day. That is the distinction. But my submission is only regarding the interpretation. The discretion is entirely yours. You are supreme and whatever decision you give is binding on the House and the Government to act up to it.

Shri Hari Vishnu Kamath (Hoshangabad): May I request you to compare the language, that is, "before the House" and "pending in the House"?

Mr. Speaker: I have compared it.

Shri Hari Vishnu Kamath: You should consider that. Rule 388....

Mr. Speaker: I have seen it.

श्री मधु लिमये (मुंजर): इसके बारे में मैं भी कुछ कहना चाहता हूँ। यह नया मुद्दा है श्री नाथ पाई का।

अध्यक्ष महोदय: बार बार नहीं कह सकते हैं।

श्री मधु लिमये: एक मिनट में मैं अपनी बात समाप्त कर दूंगा।

अध्यक्ष महोदय: आपका मतलब है कि मैं फिर सारी बहस चलाऊँ ?

श्री मधु लिमये: शुरू में मैंने प्वाइंट ऑफ ऑर्डर उठाया था। लेकिन यह नई बात घाई है। मैं एक मिनट में खत्म कर दूंगा।

अध्यक्ष महोदय: प्वाइंट ऑफ ऑर्डर उठाया और वह खत्म हो चुका है।

श्री मधु लिमये: अब इन्होंने नया मुद्दा
३।

अध्यक्ष महोदय: कहे, क्या कहना चाहते हैं ?

श्री मधु लिमये: मेरा निवेदन है कि उस दिन जो प्रस्ताव स्वीकृत हुआ है, उस में यह बात नहीं थी कि उसको "साइने डी", अनिश्चित काल के लिए मुलतवी रखा जाए। मुलतवी रखा जाए, केवल यह था। किसी भी नियम में जो बात होती है उसको सुपर-पलुअस या अतिरिक्त नहीं मानना चाहिये, बिना बजह। इसलिए आप तीस नम्बर के नियम को ठीक तरह से पढ़ेंगे तो पता चलेगा कि जैस कि कानून मंत्री ने कहा है कि सदन के सामने है, सिर्फ एजण्डा पर नहीं है अगर आप इजाजत देते हैं नियम को मुलतवी रखने की तो यह प्रस्ताव आ सकता है।

दूसरी एक बात है। यह मेसन की किताब है। मैं इसकी ओर आपका ध्यान दिलाना चाहता हूँ। यह नैजिलेटिव प्रोसीदर के बारे में है। जो प्रस्ताव चर्चा के लिए अनिश्चित काल तक मुलतवी रखे जाते हैं इसके बारे में इसमें कहा गया है कि जो अनिश्चित काल के लिए मुलतवी रखे जाते हैं उसका मतलब होता है कि एक दूसरे रास्ते से सदन ने उनको नामजूर किया है। यह बहस "साइने डी" मुलतवी नहीं हुई है, केवल मुलतवी रखने का फैसला हुआ है। इसलिए आपको पूरा अधि-कार है और आप इसको ले सकते हैं।

Shri M. R. Masani (Rajkot): I would not have participated in this discussion on the point of order but for the argument that has just been advanced. I do not think it is a sound argument. The other day, when the House voted on this matter, it did adjourn the discussion on this matter sine die and, if that is so, then rule 30 sub-clause (2) does apply.

Then, about the other matter, as to whether this matter is before the House, I think, if I may say with all respect the matter is not before the House. The House has consigned it

to a particular position which is not before it any more and rule 30(2) makes it very clear that subject only to a ballot can this matter be revived. Therefore, I would support my hon. friend Mr. Kamath in his view that there is nothing before the House on which the rule can be suspended.

Shri Hari Vishnu Kamath: May I make a submission? Just half a minute.

Mr. Speaker: Again we will be going over that over and over again.

Shri Hari Vishnu Kamath: You have already revived the discussion. I will not take more than half a minute.

I am glad that the Minister has conceded the position that the discussion was adjourned *sine die*. Now, you may compare the language of rule 388 with that of rule 336. Rule 336 says:

'A motion, resolution or an amendment, which has been moved and is pending in the House shall not lapse....

—here, the words are 'pending in the house'. If you see rule 388, the words are 'before the House'. The effect of suspending a rule under rule 388 will mean that the business before the House, that is, on the Order Paper will be taken up immediately. But there was no business before the House nor was it on the Order Paper. So, it was not before the House. Pending in the House is different from 'before the House'. There is a world of difference between the words 'pending in the House' and the words 'before the House' in this context. Therefore application of rule 388, when there was no business before the House, that being not in the Order Paper, is out of order.

Mr. Speaker: I told him that I had taken that into account.

There are two sub-clauses to rule 30, one is 30(1) and the other is 30(2). The first objection taken was that the Order Paper contained only a motion for suspension under rule 388 of rule

30(2) and not 30(1) and that unless a separate notice is given, it cannot be moved. That was the first objection taken. But if I give the consent, then it could be moved. Therefore, I do not stand in that way because there was a general desire in the House. So far as those motions are concerned, I will deem that both have been moved, one by Mr. D. N. Tiwary and the other by Mr. M. L. Dwivedy. Both are before the House.

So far as this particular case is concerned, rule 30(1) does not apply because that is only when the discussion on the motion has been adjourned to the next day allotted. In this case, when there is no mention of the next day allotted, then certainly it would only fall under rule 30(2), as has been argued by the Law Minister also. Therefore, that is the one that we have to take, whether under rule 388 this rule can be suspended. Now, sub-rule (2) of Rule 30 says:

"When the debate on a private member's Bill or Resolution is adjourned *sine die*,....

—it has been admitted by the Law Minister that this was adjourned *sine die*—

"...the member in charge of the Bill or the mover of the resolution as the case may be, may, if he wishes to proceed with such Bill or resolution on a subsequent day allotted for private members' business, give notice for resumption of the adjourned debate and on receipt of such notice the relative precedence of such Bill or resolution shall be determined by ballot."

Of course, the ballot is there in both cases. That does come in the way of the debate being resumed on that resolution. Now, the question is whether rule 388 really can help us to remove that bar which it places on our resuming the debate. If we read rule 388 we find that it says that any rule may be suspended in its application to a particular motion before

[Mr. Speaker]

House. The words 'a particular motion before the House' are very important words. As I said the other day, the only question that has to be decided is whether the resolution re: Quitting the Commonwealth was before the House when this motion was moved last time.

Shri Vasudevan Nair (Ambalapuzha): What is the interpretation of that? What is the interpretation as to whether a motion is before the House or not?

Mr. Speaker: That is what I am coming to.

There is only one other rule where the words 'business before the House' or motion before the House have been used, and that is in regard to points of order, and that is rule 376 (2). Every day we deal with these points of order and whenever they are raised I just reject them on the ground that the item is not before the House; but when I say that it is not before the House it is actually meant thereby that it is not before the House at the moment. That is exactly the language used in rule 376(2). That sub-rule reads thus:

'A point of order may be raised in relation to the business before the House at the moment.'

If it is not before the House at the moment, then certainly no point of order can be raised in relation to that.

There is another place also in the rules where the phrase 'before the House' is used, and that is in the proviso to rule 376(2), which reads thus:

"Provided that the Speaker may permit a member to raise a point of order during the interval between the termination of one item of business and the commencement of another if it relates to maintenance of order in, or arrangement of business before, the House."

Shri Jaganatha Rao: Future business.

Mr. Speaker: No, It is in relation to business 'before the House'. It is very clear that a point of order can be raised only in relation to the business before the House at the moment. But if it is on the Order Paper for that day and it is not before the House at the moment, and the point of order relates to the regulation of business or the arrangement of business, then....

Shri Hari Vishnu Kamath: So, the motion moved by Shri D. N. Tiwary is out of order.

Mr. Speaker: ...in that case, I can allow the point of order to be raised in between two items on the Order Paper of that day, and not about any business that might be pending in the House. The words are 'during the interval between the termination of one item of business and the commencement of another'. That means that the Order Paper might have those items. We might be seized of one at that moment. But if somebody wants to say something at that moment and raise a point of order about another that is to come afterwards, then certainly I can allow that; with my consent he can raise that if it relates to the arrangement of business.

Now, we have got two things clear. One is business before the House at the moment and the other is business before the House—that is in the proviso—for that day. That is the language used, namely business before the House for that day and not other business.

Then, there are three classes of business. One is business before the House at the moment; the second is business before the House for the day and the third is business that is pending with the House but not before the House. There are many motions of which notices have been given, and there are so many Bills that are there; all are pending; they will remain

there, but they are not before the House at all.

Therefore, so far as I can think, under rule 388, the resolution is not before the House and it cannot be taken up.

Dr. L. M. Singhvi (Jodhpur): Mr. Speaker, in implementation of the very ruling you have just now given, I would urge that I be allowed to raise a question in respect of the time allocated for discussion of the Report of the Central Vigilance Commission which is before the House for the day.

Mr. Speaker: He can raise that if I allow him. When it is taken up, I will hear him.

Dr. L. M. Singhvi: I bow to your ruling.

12-36½ hrs.

PETITION RE. RAILWAY CONNECTION FOR BALURGHAT

Shri C. K. Bhattacharyya (Raiganj): I beg to present a petition signed by 7,640 petitioners of Balurghat sub-division in West Dipajpur District, West Bengal, regarding railway connection for Balurghat for which they have been urging since the partition of the district as a result of the partition of the country.

12.37 hrs.

POINT RE. BANARAS HINDU UNIVERSITY

Mr. Speaker: Dr. Lohia had written to me about so many things. Now also he has written to me. What does he want?

डा० राम मनोहर लोहिया (फर्रुखाबाद): अध्यक्ष महोदय, मेरा सवाल बिल्कुल 2019 (Ai) LSD—5.

सीधा है कि बनारस में विश्वविद्यालय का नाम काशी विश्वविद्यालय है अथवा बनारस हिन्दू यूनिवर्सिटी। यहां पर श्री रघुनाथ सिंह ने जो कुछ कहा और श्री प्रधान मंत्री ने जिस ढंग का रवैया लिया, उससे बहुत गलतफहमी फैली है, और जिस आधार पर हम यहां इकट्ठे हुए हैं वह आधार खत्म होता है क्योंकि इस विश्वविद्यालय का हिन्दी नाम हमेशा से, जब से यह सन् 1916 में बना, अब तक काशी विश्वविद्यालय रहा है।

अध्यक्ष महोदय: यह बात तो बहम में आयेगी जब हम इस बिल को फिर लेंगे। अगर कोई गलतफहमी पैदा हुई है तो उस बिल दूर हो जायेगी। यह विजिनेस अभी हमारे सामने नहीं है।

डा० राम मनोहर लोहिया: यह बात श्री रघुनाथ सिंह जी ने...

अध्यक्ष महोदय: घाबरें, घाबरें।

डा० राम मनोहर लोहिया: यह तो आप कसम तुडवा रहे हैं न। इसे देखिये कि मन्त्री महोदय इस पर युद्ध करवा रहे हैं, गृहयुद्ध करवा रहे हैं।

अध्यक्ष महोदय: आप जरा बैठ जाइये। मेरी बात पहले सुन लीजिये। मेरे पास तार आया, In an unusual manner, exceptional manner, which certainly he should never resort to. उसका मैंने हाउस में जिक्र कर दिया कि मेरे पास डाक्टर लोहिया ने तार भेजा है कि वहां जो तमाम ईंट लगी हैं उन पर सिर्फ काशी विश्वविद्यालय लिखा हुआ है, उनमें हिन्दू नाम नहीं है। लेकिन उसके कहने की इस वक्त जरूरत नहीं थी। जिस दिन चर्चा चल रही थी उसी वक्त श्री रघुनाथ सिंह ने कहा कि वह इसका गलत साबित करेंगे, वह एक ईंट लाये हैं, और उनके पास एक ब्रिक भी थी। वह उसी वक्त चाहते थे लेकिन मैंने उस वक्त इस को मंदा कर दिया कि वह वक्त इस सवाल को उठाने का