

आचरण किया। अगर उस तरीके से दूसरे हासक वर्ग के लोग भी चलें तो देश में एक बड़ा स्वस्थ वातावरण निर्मित हो सकता है। यह करप्शन देश से इस तरह से पूरी तरह मिट जाय कि जैसे भ्राज हमारी इस पार्लियामेंट में करप्शन को लेकर चर्चा की जाती है और एक जुबहे के भाषार पर प्रश्न पूछे जाते हैं, किन्हीं मंत्री को लेकर जुबहे के भाषार पर खवाल जबाब यहाँ हाउस में किये जाते हैं वैसे खवाल करने का भी मौका न चाये इस रीति से इस देश का काम चले।

अध्यक्ष महोदय : अब माननीय सदस्य काम ही कर दें।

श्री तुलसीदास जाधव : बस एक मिनट और।

अध्यक्ष महोदय : श्री स० मो० बनर्जी।

श्री तुलसीदास जाधव : मराठवाड़ा में टेलीफोन और टेलीग्राफ आफिस की तुरन्त व्यवस्था करने के लिए मेरी विनती है। बस इतना ही कहना था।

अध्यक्ष महोदय : घाप बंदी तो सुनते नहीं टेलीफोन चाहते हैं।

14.59 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

SUPREME COURT'S JUDGMENT ON A DIR DETENTION CASE IN KERALA—Contd.

Shri S. M. Banerjee (Kanpur): I have already read the Notice.

Shri H. N. Mukerjee (Calcutta Central): Before the Home Minister replies, may I know how and why it is that, in spite of this notice having been of several day's standing, the Home Minister preferred to make a statement in the other House earlier than here? This kind of thing is happening repeatedly and I do not know why.

Mr. Speaker: I got this notice only this morning.

Shri S. M. Banerjee: We gave this notice just on the day when Chief Justice Gajendragadkar delivered his judgment. The notices were given almost simultaneously to both the Houses, but it was admitted there....

Mr. Speaker: Then that is not the fault of the Home Minister. It is my fault because I had not admitted that and, therefore, it could not be answered.

Shri S. M. Banerjee: The Ministers treat this House with contempt.

Mr. Speaker: What the hon. member says has no justification. I am stating the facts as they are. I did not admit it and, therefore, there was no occasion for the Home Minister to make a statement. It was admitted in the other House and, therefore, the Home Minister had to make a statement there. When I found that, I thought that it was not fair that this House should not get the opportunity. Therefore, I have allowed it.

15 hrs.

The Minister of Home Affairs (Shri Nanda): There also it was admitted on Thursday and I could not but make the statement on Friday. I was asked to make the statement at noon. I asked for permission to make it later.

Sir, Government have seen the judgment of the Supreme Court arising out of Writ Petition No. 136 of 1965 (G. Sadanandan Versus the State of Kerala and another) and have taken due note of the observations made by the court on the need to guard against excessive and indiscriminate use of powers under the Defence of India Laws by the executive, especially when, under the Proclamation of Emergency, some of the fundamental rights of citizens remain suspended. It is unnecessary for me to go into the facts of this particular case as they have been set out in detail in the judgment itself. We immediately called for the comments of the Kerala

[Shri Nanda]

Government which are awaited, and if a particular public servant is found to have acted mala fides, suitable action will certainly be taken against him. I am sure, however, that the main intention behind the calling attention notice is to elicit an assurance from the Government that the caution administered by the Supreme Court is not lost sight of. This assurance I readily give. In fact, as the House knows, Government have had the justification of the Emergency and the use of Emergency powers under a continuing review in the light of information available to them of the nature and extent of external threat still facing the country. Whenever specific instances of executive action under the Defence of India Rules are adversely commented upon by Court either in regard to substance or procedure, the Central and State Governments invariably take note of such criticisms and issue suitable instructions to avoid recurrence of similar lapses in future. Very recently, I have made, jointly with some Chief Ministers who were in Delhi, a further detailed review of the use of Defence of India Rules. It has now been decided that recourse should be had to the powers of preventive detention and prosecution under those rules only for the strictly limited purposes of national security, that is the defence of India, civil defence and efficient conduct of military operations.

Shri Vasudevan Nair (Ambalapuzha): Hundreds of persons are being arrested under D.I.R. in West Bengal. What is the meaning of this?

Shri Nanda: I may mention here some of the conclusions which follow from this decision and which have been communicated to the Chief Ministers:

- (i) There should be no prosecution under the Defence of India Act and Rules for offences other than those connected with national security.

- (ii) The freedom of the Press being an essential condition of proper functioning of democracy, editors, printers and publishers of newspapers should not be prosecuted even for offences connected with national security except on the recommendation of the appropriate Press Advisory Committee.

- (iii) For controlling hoarding, black-marketing and other economic offences also, recourse should not be had to preventive detention under the Defence of India Rules. If preventive detention is considered absolutely necessary, use can be made of the provisions of the Preventive Detention Act which carry the safeguard of what in essence is judicial scrutiny.

- (iv) The power of detention under rule 30 of the D.I.R. should not be used against *goondas* and other similar anti-social elements.

- (v) A similar circumspection is necessary in prosecutions for activities connected with industrial disputes. In a broad sense, a large number of industries and services both in the public and the private sectors are concerned with or have a bearing on defence. Prosecutions under the Defence of India laws would, however, be appropriate only in a defence industry or service, and in exceptional circumstances.

Arising out of these conclusions, even for the limited use of the Defence of India Rules, the following procedural and other safeguards have been suggested:

- (i) The power should be exercised only by the Central Gov-

ernment, the State Governments and the Administrators of Union Territories and not by any subordinate authorities. Should a grave situation arise in future in which the local authorities have to be enabled to take immediate action the powers can be redelegated.

- (ii) Under sub-rule (9) of D.I. Rule 30A a detention order is required to be reviewed only at intervals of not more than six months. However, it is desirable that in practice a review should be made at intervals of three months.
- (iii) In the review of detention orders under sub-rule (9) of the Defence of India Rule 30A a further element of objectivity may be introduced through the association with the review of one or more senior officers not concerned with the passing of the original order.

Government soon propose to examine the whole question in the overall context and in doing so, considerations such as those contained in the judgment of the Supreme Court and urged by the Members during the debate on the Motion of Thanks to the President's Address will certainly be given weight. The House will, however, readily recognise that it is Government's paramount responsibility to safeguard national security and a careful assessment will have to be made of the military and political factors that may constitute a threat to national security. I need hardly assure the House that Government are conscious of the need to ensure the fundamental rights assured by the Constitution do not remain suspended for a longer period than is absolutely necessary.

Shri S. M. Banerjee: All the political leaders, political parties and mass organisations are already

demanding the end of Emergency and repeal of D.I.R. I want to know whether the attention of the hon. Minister has been drawn to an appeal sent to the President and to the Prime Minister by 34 prominent citizens belonging to no particular creed, including the former Attorney General, three former Chief Justices, Mr. C. D. Deshmukh, Mr. R. K. Nehru and others requesting both of them to revoke the Emergency. They have said that already the face of our country has been tarnished enough because of Emergency.

Mr. Speaker: The hon Member may ask his question now.

Shri S. M. Banerjee: My question to the Prime Minister is whether such an appeal has been received by her and if so, what is her reaction—whether she is going to withdraw the Emergency and repeal the D.I.R.

The Prime Minister and Minister of External Affairs (Shrimati Indira Gandhi): I have received a letter from Mr. Setalvad as well as a copy of the other document. I am sure the House will appreciate that these things cannot be done suddenly. The Home Minister has already stated that we are going to review this matter very very soon keeping in view all that has been said in this House and in the other House as well as by important members of public.

Shri S. M. Banerjee: You declare it tomorrow and you will get an applause from the whole country.

Shri H. N. Mukerjee: Since the main question is the question of revocation of Emergency and renunciation of such weapons as Defence of India Rules, etc., and in view of very strong expressions of judicial disapproval of the way in which the Defence of India Rules are administered—as far as the judgment is concerned, there are such words as Police State being in germination in this country on account of this indefinite continuation of Emergency—do I take it that Government is

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seriously examining the question of revocation of the Emergency with all its implications and not merely taking shelter behind the kind of thing the Home Minister has told us which implies that the Defence of India Rules with all the stringencies would continue to be applied in the case of detention of people without trial for allegedly political reasons? If the question of national security is paramount in the minds of Government, I would like to know how it is that so many hundreds of political workers, including Members of Parliament and Members of Legislative Assemblies, are kept in jail without trial when not even one instance of a charge of treachery to the country in any shape or form has been decided in a court of law. That being so, I want to have a specific assurance from Government that they are considering seriously the revocation of the Emergency with all its implications and not merely dealing in a footling little way with some modifications here and there, and that the question of the release of people who are for political reasons kept in detention without trial would be considered at once and without delay.

Shri S. M. Banerjee: Immediately.

Shri Nanda: I am sure the hon. Member has followed what I have state here. It is very obvious that all the footling little things have been disposed of. As regards the cases which are not related to the security of the country we have said that these provisions hereafter will not be employed or will not be applied.

Shri S. M. Banerjee: Will the persons arrested be released?

Mr. Speaker: The question is whether the revocation of DIR and the release of prisoners is being seriously considered.

Shri Nanda: Regarding that alone, my answer is that the question and the answer tally with each other. The

question is whether this aspect is going to be scrutinised. The answer here is that we are going to have a scrutiny or a review in the overall context exactly of this aspect which the hon. Member is anxious about. . .

Dr. Ranen Sen (Calcutta East): How is it that even today about 1500 people have been arrested and detained in West Bengal?

Shri Nanda: The judgment which is the subject-matter of this calling-attention-notice contains also the mention of the fact that it is a rare case. So, one has not to draw the conclusion that it is the type of case which comes about every now and then.

Shri S. M. Banerjee: May I seek your protection . . .

Mr. Speaker: Shri Yashpal Singh.

Shri S. M. Banerjee: May I seek your protection? . . .

Mr. Speaker: Shri S. M. Banerjee should not speak sitting. I have called Shri Yashpal Singh.

श्री यशपाल सिंह (कैराना) : पाकिस्तान के साथ बैठकर हमने नाशकंद में समझौता किया कर लिया। चीन ने हमारी 38,000 मुर्खबा मीन भूमि पर अधिकार कर लिया और सरकार उसको क्लेम नहीं करती है। थांगला रिज में नाँचे उतर कर जब चीनी फौज आती है तब सरकार कहती है कि आक्रमण चीन ने कर लिया है। कैलाश मानसरोवर पर हमारा कोई क्लेम नहीं है। ऐसी अवस्था में इस एमरजेंसी का क्या मतलब है और इसको कायम रखने का क्या मतलब है ?

श्री नन्दा : मैं नहीं समझता हूँ कि कोई खास जवाब देने की बात मेरे लिए रहती है।

Shri Vasudevan Nair: The Home Minister was referring to a conference

of Chief Ministers in Delhi. He has said also that the authorities down below in the States have been asked to review the cases perhaps in three months' time. But may I know from him why even after the Chief Ministers' Conference, hundreds and thousands of people today or yesterday or the day before yesterday have been arrested under the DIR, in spite of the decision that the ordinary law should be used, and why in the Punjab and West Bengal, hundreds of persons are in jail? I know Sir, that you allow only one question; so, kindly excuse me for asking parts of the question in a different way.

The Central Government took a political decision to arrest in 1964 hundreds of communist leaders and they are still in prison on the basis of that decision taken by Shri Nanda. In the other House he said and he implied that they were enemies of the nation, which, according to me, is an absurd statement. What is the meaning in asking the authorities down below to review these cases from time to time, when a political decision at the top level in Delhi was taken by Shri Nanda and the Central Government? How could the authorities down below release them? I want to know whether all those prisoners would be released and a political decision at Delhi would be taken on that particular question.

Mr. Speaker: This question is the same as what was put by Shri H. N. Mukerjee.

Shri Nanda: Firstly, in regard to the term 'enemies of the nation', we were told that we had detained those people because they were opponents of a party. I said that they were people inimical to national interests...

Shri S. M. Banerjee: If that be so, why not try them in a court of law?

Shri Nanda: Otherwise they would not be detained.

An hon. Member: He cannot take a decision in that manner.

Shri Nanda: Regarding the decision that has been taken, it has been communicated to the States about three days ago, and therefore, it must have reached them; I am sure that they will take that fully into consideration and both in letter and in spirit it will be carried out.

Shri Vasudevan Nair: My question was specific. A decision was taken by the Central Government to arrest these people. How could the State Governments release them now without the order of the Home Minister here or the Central Government? I would like to know whether he has given them that order.

Shri Nanda: A decision was not taken regarding the arrest or detention of any individual. It was a question of the assessment of the kind of threat which the country was facing and that was what had been considered in conjunction with the Chief Ministers.

Shri S. M. Banerjee: I rise on a point of order....

Mr. Speaker: The hon. Member should not get impatient.

Shri A. V. Raghavan (Badagara): May I know whether the detenus arrested in Kerala have been provided with subsistence allowance, and if not, whether the Home Minister will consider the question of giving them subsistence allowance immediately?

Shri Nanda: Yes, it has been given in a number of cases.

Shri A. V. Raghavan: It has been given only in 50 per cent of the cases.

Shri Nanda: Afterwards there has been a revision of the rules etc. and the conditions pertaining to detention, and a liberalisation has been done on a large scale.

Shri H. N. Mukerjee: Do we take it, on a clarification of the Home Minister's answer that the recent

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arrests in West Bengal in particular to which reference has been made, have been conducted outside of the ambit of Government's intentions and that those arrested are going to be released as a result of Government's intervention in this matter?

Shri Nanda: It depends upon what kind of offence has been committed.

Shri N. C. Chatterjee (Burdwan): May we have a clarification, arising out of his answer?

Mr. Speaker: My difficulty is this. I can call only those Members who have signed the notice.

Shri N. C. Chatterjee: I know that. The question has been put already. I am only asking for a clarification. Have directives been issued by the Home Minister to all the State Governments immediately to withdraw the orders and lift any orders against persons who have been detained for reasons other than the security of the State?

Mr. Speaker: The hon. Member wants to know whether in pursuance of this policy any instructions have been issued to all the State Governments?

Shri Nanda: I have written a letter to all the States conveying the intentions of Government.

Shri S. M. Banerjee: You should protect us, Sir....

Dr. Ranen Sen: Does it mean that West Bengal has not accepted the Home Minister's instructions?

Shri S. M. Banerjee: I seek your protection.

Mr. Speaker: I must tell Shri S. M. Banerjee that he should not speak sitting again and again. That is not the procedure to be followed in Parliament; the procedure is that hon. Members should rise and try to catch

my eye. But I find that the hon. Member stands up and speaks whatever he likes and goes on as long as he likes.

Shri S. M. Banerjee: I simply wanted your permission. I was only trying to catch your eye.

Mr. Speaker: Now, let him say what he wants.

Shri S. M. Banerjee: I only wanted to get one clarification. The Home Minister has stated that the judgment of the Supreme Court and the other things flowing from it would be taken into consideration. What I would like to point out is this. Even after the pronouncements of many High Courts such as the Allahabad High Court, the Punjab High Court...

Shri N. C. Chatterjee: And the Bombay High Court.

Shri S. M. Banerjee:.....and the Bombay High Court unconditionally to release those persons and even after it had been declared that the arrests were *mala fide* and they were with *mala fide* intentions and they were illegal and the persons were released in December, they had again been arrested in February. So, what is the use of the hon. Minister's saying that such arrests will be unusual?

Mr. Speaker: How can I ask him to reply to this? It is for Government to decide.

Shri S. M. Banerjee: Let him answer that question.

Mr. Speaker: Now, Shri Shinkre.

15.20 hrs.

MOTION ON PRESIDENT'S
ADDRESS—contd.

Shri Shinkre (Marmagao): John Fitzgerald Kennedy, the late-lamented President of the USA, whose memory even we in India so very much