

12.43 hrs.

[English]

RE : CONSTITUTIONAL CRISIS ARISING OUT OF THE ORDERS BY THE CHIEF ELECTION COMMISSIONER POSTPONING ELECTIONS IN THE COUNTRY

SHRI SOMNATH CHATTERJEE (Bolarpur) : The other matter on which I have given you a notice is also a very serious matter because there is a continuing constitutional crisis in this country. There had been a commitment and a statement made by the hon. Minister of Parliamentary Affairs, namely, that the Government was going to approach the court. The statement was made on the 5th that they were going to approach the court tomorrow; that was 6th; and he categorically stated : "We are seeking stay and we hope that we will get it". My definite information is that no prayer for stay was made at all; no application was made in writing, not even an oral prayer was made by the Government of India. Solemn assurance was given on the Floor of this House. The crisis is continuing. This is the first time, believe, subject to correction, under the High Court, elections are being held at the highest forum of this country—legislative forum, Rajya Sabha elections were held under court order, Assembly elections were held under court order, Council elections were held under court order.

We had a discussion in your Chamber. All parties were there. There was a total inaction. It seems that—as I have said elsewhere—it is a vested interest, the Government has a vested interest in the matter being prolonged and dragged so that—I do not know what arrangement they are coming to with the Election Commission—it is being said that there will be a reference to the Supreme Court under Article 143; and *quid pro quo* some election will be permitted to be held. We have no statement from the Government; we have no response from the Government. Government has accepted on the Floor of this House the opinion given by the learned

Attorney-General. Thereafter, there is no scope for a reference to the Supreme Court. If the Government was under some doubt, if the Government could not make up its mind, then the question could have been sent to the Supreme Court.

What is going to happen? How is this crisis going to be solved? We have met Rashtrapatiiji. A number of Opposition Parties have met the hon. Rashtrapatiiji. We said, we are even prepared to cooperate with the Government in passing the Constitution (Amendment) Bill or any other Bill that may be necessary to resolve the crisis.

This country is waiting from the 2nd of August. Today is the 10th of August. The entire electoral process has come to a halt. Parliamentary democracy is under severe strain. I cannot think of any greater constitutional crisis in the recent years. But the Government is sitting like a Sphinx; either they are unable to think or they are unable to come to a decision; they are not taking the Opposition Parties into confidence. What is going to happen in this country I would like to know, through you, from this Government? Why did not the Government apply for a stay in spite of the clearest assurance given on the Floor of this House? (Interruptions) They must consult with regard to this.

SHRI SAIFUDDIN CHOUDHURY (Katwa) : We want to know in categorical terms from the Government whether they are going to take a decision about the multi-member Commission, which is already provided in the Constitution.

SHRI BASUDEB ACHARIA (Bankura) . It is a breach of privilege of the Members of this House.

SHRI SAIFUDDIN CHOUDHURY : Why are they delaying on this? No action has been taken by the Government. We cannot allow this. (Interruptions)

SHRI BASUDEB ACHARIA : What action the Government has taken? A statement was made by the Parliamentary Affairs Minister. (Interruptions)

SHRI TARIT BARAN TOPDAR (Barrackpore) : We want to know what

direction you have given to the Government. It is a contempt of House committed by the Minister. (*Interruptions*)

SHRI BASUDEB ACHARIA : The Minister has very categorically said that they would approach the Supreme Court and would ask for stay order but after 6th what steps Government has taken in this regard. (*Interruptions*)

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : Sir, Will you allow this to continue ? (*Interruptions*)

MR. SPEAKER : Shri Somnath Chatterjee has put the matter very clearly before the House. You should not have the pleasure of just putting the same thing again and again.

(*Interruptions*)

MR. SPEAKER : Let me direct...

(*Interruptions*)

MR. SPEAKER : If all of you stand up together and speak, what can we do ?

(*Interruptions*)

MR. SPEAKER : Please sit down and understand that there was one very important matter on which the senior members of the House had expressed their views. Let us not mix these issues together. Let us take up one by one. We are supposed to be the highest institution in the country which make down the laws for others. Should we not follow our own rules ?

(*Interruptions*)

MR. SPEAKER : If you are going to talk like this then you can talk like this.

(*Interruptions*)

MR. SPEAKER : I cannot compete with you in talking like this.

(*Interruptions*)

MR. SPEAKER : I am about to say something. They should sit down. If the members want to say that something should be done according to the rules then they should not stand up, they should sit down.

[*Translation*]

SHRI ATAL BIHARI VAJPAYEE (Lucknow) : Mr. Speaker, Sir, I would also like to say a few words in this regard. On that day in response to my question, Shuklaji had replied that they were going to the Supreme Court and would ask for a stay. But they did not move the Supreme Court. Even if they moved, they did not ask for stay.

[*English*]

SHRI SOMNATH CHATTERJEE : They are not even parties. They are just intervening.

SHRI SAIFUDDIN CHOUDHURY : They have insulted the House.

SHRI TARIT BARAN TOPDAR : You are the custodian of the prestige of the House. (*Interruptions*)

[*Translation*]

SHRI ATAL BIHARI VAJPAYEE : Whatever was assured in the House was not actually implemented. My complaint is not to the hon. Minister only, but I have to make some request.

MR. SPEAKER : Do you also have any complaint against me ?

SHRI ATAL BIHARI VAJPAYEE : I have no complaint against you, but I want to make a request...

MR. SPEAKER : No, you can also complain against me.

SHRI ATAL BIHARI VAJPAYEE : When this issue was raised that day, whatever you had expressed in the end was very meaningful and had showed your far-sightedness. The Government should have got the message from it that if it does not take effective steps to end this Constitutional deadlock and the Court also delays this issue, the House which is the Supreme body in its own functioning will use its power and find out some solution in this regard. Mr. Speaker, Sir, do you not think that that time has come ?

MR. SPEAKER : I will tell you after talking with them.

**SHRI ATAL BIHARI VAJPAYEE :** As it was mentioned just now that a meeting was held in your Chamber and it was advised to take the opinion of the Supreme Court. In the light of the opinion expressed by the Attorney-General here, I think that there is no need to take the opinion of the Supreme Court. We have expressed our objections on the statement given by the Attorney General. We cannot accept this situation that the Election Commission should be guided by the Government. We all know how the election was conducted in Assam.

[Translation]

**MR. SPEAKER :** Loknath Ji, please sit down. As you know, as per rules, when one member is speaking another member should not stand up. Why do you need to be told time and again? Please sit down... (Interruptions)

[English]

**MR. SPEAKER :** Shri Lokanath Choudhury, please sit down.

**SHRI LOKANATH CHOUDHURY** (Jagatsinghpur) : Let me make my submission.

**MR. SPEAKER :** I will call you. You can go on making your submissions. I have no objection.

[Translation]

**SHRI ATAL BIHARI VAJPAYEE :** Mr. Speaker, Sir, Supreme Court's advice is to be taken on this issue. I would like to know whether the Government have decided anything about it and what does the Government want to do in this regard? How is this impasse going to be resolved? The House should be taken into confidence in this regard. As I said, an opportunity to hold a discussion on it should be given.

**SHRI LAL K. ADVANI :** A promise has been broken.

**SHRI ATAL BIHARI VAJPAYEE :** Shri Vidyacharan Shukla has gone back on this word.

[English]

**SHRI NIRMAL KANTI CHATTERJEE** (Dumdum) : What are you trying to convey to them? It is a simple point. Where is the scope for arguing? Ask them a straight question, what they are going to do.

[Translation]

**SHRI ATAL BIHARI VAJPAYEE :** I am enforcing... (Interruptions)... All of you are speaking after your leader has spoken. What were you doing? ..(Interruptions)... It is a serious matter. If I wish I can bring a Motion for breach of privilege, but the matter is so delicate, I believe, the interests of this House and our own interests are safe in your hands. The Government must be asked to give a clarification in this regard. The clarification should be clear. Otherwise, Mr. Shukla would be pulled up. He may move the Court later, but first, he would be put in the dock here.

**SHRI VISHWANATH PRATAP SINGH** (Fatehpur) : Mr. Speaker, Sir the concern expressed here does not relate to the House alone. You have yourself understood the problem and we have full confidence that the Government will definitely take appropriate action. But it is distressing that the Government, instead of taking the House into confidence, as per your instructions they are taking it very lightly. It was not within their rights to do so. If they have introduced those matters, then they are answerable whether the matters put before the House were correct or false. It becomes their duty to explain the spirit with which they put those matters. A doubt was expressed on that very day that a big constitutional impasse had been created. But they are making it look like a small personal rift among some private people. Is the Government going to intervene or not? It was said at that time that the Government would also become a party to it. So far I can remember, it was categorically stated that the Government would be a party to it. Then, why were they not a party to it? Today, they say that they were mere interveners and not a party to it. Secondly, it was stated that they would seek a stay and move the Court and it was said right

in front of you. Then, it was not raised later on. They should give a clarification as to why the facts were misquoted here. It is not Shri Seshan who has put a stay on democracy, rather it is they who have put a stay on their minds. They repeatedly seek the advice of the Supreme Court. One final reference should be given to say that this Government is not capable of running the country. A case should be filed in the Supreme Court under Rule 143. There is no other alternative before this Government. You said that this problem is not only judicial but executive and legislative. What is the role of the Executive in it? What are they doing. Such a constitutional impasse cannot be tolerated. Categorical instructions should be issued to them to know as to what are they doing in their Executive capacity. The Members in this House represent the political will and the mandate of the country. This political helplessness and inertia being shown by the representatives in whom the 90 crore Indians have vested their power, is not being tolerated by the masses. They should be made to give the reasons for misquoting the facts and the action which is being proposed to be taken by them.

[English]

**SHRI LOKNATH CHOUDHURY** (Jagatsinghpur) : Mr. Speaker, Sir our country has never faced such a constitutional crisis before. Sir, you had taken initiative and called all the leaders. They reached a consensus. But the Government is still silent on the consensus. When this issue was raised again, the Government gave a statement to which we did not agree. The Minister categorically stated in this House that they will go to the Supreme Court. But the Government have not gone to the Supreme Court so far. In spite of the commitment given to this House by the Government that they will go to the Supreme Court. They have not gone to the Supreme Court. I would like to know whether it is a breach of privilege on the part of the Government or not.

When this issue was discussed last time in the House, Sir, you gave a historic ruling, which was hailed by all sides. The historic ruling was that this problem is not

only judicial but it is executive and legislative also and thereby you observed indirectly that the executive has something to do. But the executive remains mum. I would like to know if the Government is paralysed or the executive is a party to this constitutional crisis. That is the doubt which has come to everybody's mind.

Sir, the Minister of Parliamentary Affairs had made a statement in this House but had not implemented it and he had violated it. He should come under privilege.

Thirdly, this Government is a paralysed Government, which is not acting to solve such a constitutional crisis and like other issues, it is delaying this issue also. We are saying that this crisis is the worst crisis in our history. On many issues, even on Ayodhya and other issues, this Government always took time and never acted, which puts the nation into a crisis, Sir, the Government is paralysed in its mind, in its action and in its approach to the national interests and Constitution. It is a matter of great concern, which the nation should take into consideration and Sir, I urge upon that your ruling...

MR. SPEAKER : Please do not repeat.

**SHRI LOKNATH CHOUDHURY** : Sir, you should also see that your ruling is enforced.

MR. SPEAKER : Okay, is that your direction to me?

(Interruptions)

**SHRI BASUDEB ACHARIA** (Bankura) : Sir, the Minister would respond to this issue (Interruptions)

[Translation]

**SHRI MANORANJAN BHAKTA** (Aandaman and Nicobar Islands) : Mr. Speaker, Sir, I would like to add something to what the former Prime Minister Shri V. P. Singh and other Members have said. It is a fact that the decision taken by the Election Commission has created a crisis in the country in its wake and the honourable Members of all the parties should consider that so far as the elections are

concerned. Election Commission is supreme in the country. So, we will have to make sure that he enjoys all the powers... (Interruptions)... Let me speak, please. I am not disturbing you. (Interruptions)

13.00 hrs.

I, therefore, feel that the matters relating to this procedure should not be decided in a haste. I want to make a submission that there was a three-member Election Commission at the time of Rajiv Gandhi but the V. P. Singh Government reverted back to one member Election Commission. Now, those very people are demanding a multi-member Election Commission. Did they not find it necessary during their tenure?

I, therefore, submit that this is a serious matter and it should not be dealt with in a haste. The Government should make a statement on the present situation. Actually, the Government should have given a *suo moto* statement even before the Members demanded it.

It is my submission to all hon. friends that this is a serious matter without concerning any particular party.

It is a law and order situation and nothing should be done which might create an atmosphere of distrust.

SHRI NITISH KUMAR (Barh) : Mr. Speaker, Sir, certain honourable Members have expressed their concern in this regard. I would like to bring to your notice that all the hon'ble Members have received a letter on behalf of the Election Commission alongwith a printed copy of the orders of the Chief Election Commissioner and the annexure contains a correspondence that took place between then the Cabinet Secretary and the Chief Election Commissioner and the Prime Minister.

Mr. Speaker, Sir, from all these papers it becomes clear to hon'ble Members that the Chief Election Commissioner always acted under Rule 324(6), demanded explanations from the Government and briefed the Prime Minister about it. Mr. Speaker, Sir, these things are happening

since April but the Prime Minister has treated them casually. The Election Commissioner has not issued any order out of the blue. The news-papers have kept us informed. When the elections had been postponed till 18 December it resulted in a constitutional crisis. The electorate were deprived of their right to elect their representatives. We had expressed our concern here about the constitutional crisis. The more important thing is that he repeatedly informed the person holding such an important post as that of the Prime Minister and sought a statement from him time and again but no such statement was given by the Government. That's why this crisis was created. This is not less important. You had made some meaningful observations two days back that if it is not decided by the Executive then it would be finally decided by the legislative.

Mr. Speaker, Sir, the whole matter is before you. And the way Mr. Shukla treats this House does not need to be repeated. At first he said that he would move the court for seeking a stay but did not. The motion of privileges is being discussed in this regard. Mr. Shukla will not change his ways unless you intervene. We are all expressing our concern in the House and so you are, yet, no action is taken. Now the Executive is not likely to take any action. And, I think, the Congress Party is going to be the final beneficiary. The Congress Party is not in favour of elections. The Congress Party has its own inner rifts regarding Mr. Sharad Pawar and they will find a way to nominate him, though that is a different matter and is not open for discussion. But it is clear that the Congress Party is the final beneficiary. They want to postpone the elections. This attitude is against the country, parliamentary process and the Constitution. You are requested to intervene and exercise your powers to tide the country over this constitutional crisis.

[English]

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA) : Sir, you have expressed the common concern of the House

and of all the parties on the basis of which you convened a meeting of all party leaders which was also attended by the Prime Minister of India. After discussing this, we were considering this matter along with the officers and experts from the Law Ministry about this matter when I was told that this matter had again been raised in the House. And then I came to the House and informed the House that we were discussing this matter and we will move—whatever has been reported in the record; that I am not denying. That is accurately reported there. I said we will move the Court for stay. We were hopeful of getting that stay. After I went back from here, the information was received by us that the stay of the Election Commission's order was given by the Calcutta High Court and the Madras High Court and the Bombay High Court. Actually the Bombay High Court had given it earlier. (*Interruptions*) Kindly hear me. I will answer all the questions that you have.

The Bombay High Court had given the stay earlier. When we were discussing it, the information about stay being granted by the Madras High Court and the Calcutta High Court came a little later. Similar petitions are moved in the Gujarat High Court and the Patna High Court. These five High Courts are seized of the matter. They have stayed the orders of the Chief Election Commissioner and in all these States the election process is going on, on the basis of the stay granted by the High Courts. Now the election process in the country has not come to a halt. It is going on because of the stay orders given by the Courts. (*Interruptions*) Let me give you the information that you are asking me and then I am available to answer all the questions that you ask.

After getting this information we decided not to approach the High Court for stay because the stay were already given in various High Courts.

**SHRI SOMNATH CHATTERJEE** (Bolspur) : Was it High Court or Supreme Court? What impression did you give? (*Interruptions*)

**SHRI VIDYACHARAN SHUKLA** : I said that we would like to move the Supreme Court and get the stay. But when we found that similar stays have been given by the High Courts, then we decided not to move the Supreme Court for stay. (*Interruptions*)

I had said we would like to do that. But later on the decision was changed because we got the information that other High Courts have stayed. (*Interruptions*)

**SHRI VISHWANATH PRATAP SINGH** : Sir, that is not the point. The point is actually the Government is leaving everything to the fate of private litigation and is not ready to take the responsibility and intervene in these forums. That is the point. (*Interruptions*)

**SHRI VIDYACHARAN SHUKLA** : Let me tell my point. After we got the news of the stays that have been given by the High Courts, we decided not to move the Supreme Court. Secondly the Supreme Court also made an observation that the Chief Election Commissioner must come up with a considered opinion before the Supreme Court of India on the 13th. They were given that direction by the Supreme Court. On that basis the Chief Election Commissioner is going to make a submission to the Supreme Court of India on the 13th of this month.

Sir, this is an unconfirmed report but we are told that a Special Leave Petition has been moved today in the Supreme Court by the Chief Election Commissioner. This is the information we have received. I am not standing here to say that that has been done or not. But this unconfirmed report was also given to us.

Sir Dipankar Gupta, the Solicitor General of India intervened on behalf of the Union Government in the Supreme Court and he put forward the Central Government's point of view there.

Ultimately it was decided that we will wait for the submission that the Chief Election Commissioner has to make to the Supreme Court of India. And on the basis of it we will then take up the matter

with the Supreme Court in the light of this developing situation. I would like to assure my colleagues here that the election process in West Bengal, in Gujarat, in Maharashtra and in Madras is going on.

**SHRI SOMNATH CHATTERJEE :** Not after Shri Sharad Pawar has withdrawn his petition. How is it going on ?

**SHRI VIDYACHARAN SHUKLA :** It is going on.

**SHRI SOMNATH CHATTERJEE :** How is it going on, because the stay order operates ?

**SHRI VIDYACHARAN SHUKLA :** May I say to my lawyer friend Somnath Chatterjee...

**SHRI SOMNATH CHATTERJEE :** We have been told that...

**SHRI VIDYACHARAN SHUKLA :** I am completing it. Let me complete it. If I don't give enough information, then you can ask for it.

It was offered on behalf of his client, i.e., Mr. Sharad Pawar, by his lawyer, Shri Nariman, that he is prepared to withdraw his petition if the permission is given for the plea etc. But according to my information, I am speaking subject to correction that that petition has not been withdrawn so far. This is the position today at this time. Upto now I have....

[Translation]

**SHRI SOMNATH CHATTERJEE :** Dissolve the election Commission. The Election Commission has nothing to do with the High Court and the Supreme Court.

[English]

**SHRI VIDYACHARAN SHUKLA :** Sir, when the Supreme Court makes an observation that the Chief Election Commissioner must come and give his point of view on this particular thing—on 13th they fixed a date on which he is supposed to give this information. High Courts had taken certain actions on this matter. Then it was not considered later on that it is not proper for us to move the Supreme

Court for the stay which has already been given by three High Courts and two more High Courts are seized of the matter where some similar petitions have been moved. And I would like to say, Sir, that we have no vested interests in this crisis to go on. We want this crisis to be resolved and it was clearly stated so by the Prime Minister in the Meeting that was convened by you that there is no question of *quid pro quo* and I will request the hon. Member particularly Nitish Kumarji to clear his mind and thinking on this matter that there is no question of any difference of opinion between the hon. Member sitting on that side and this side, we are all anxious that a proper system and proper law should be laid down and proper conduct of election should take place in a manner which does not cast doubts on the impartiality of either the State Government's candidates or the Chief Election Commissioner or his conduct of the situation. As Shri Nitish Kumarji has said that for many months he had been agitating on certain points on which he had some correspondence with the Government which has been made available to all the Members, and they had the benefit of knowing the entire background of this crisis. This crisis has not developed because of any inaction. This crisis has developed because of certain differences in approach and difference of opinion, interpretation of the various statutes and if there is any difference in such things, they have to be resolved by discussion between the statutory authority concerned and the Government and that we are trying to do.

As far as this matter is concerned, the question of the Congress being benefited is so far away from truth. Actually, hurting the process is hurting the Congress more than any other Party. We are not at all being benefited by this. We want this process to go on and therefore, Sir, I would request you, we will have to wait until the next hearing takes place before the Supreme Court which will be on the 13th and the opinion of this hon. House is being represented in the Supreme Court by the Solicitor-General of India and he has got all the material that we have provided with him and he will certainly bring forward the viewpoint of the Government.

As far as the stay is concerned, I have explained to him under what circumstances I had made the Statement and under what circumstances the stand that we had proposed to take had to be changed. This is what I have to say, Sir. (*Interruptions*).

SHRI SOMNATH CHATTERJEE : We want a clarification.

SHRI NIRMAL KANTI CHATTERJEE : Sir, I am on a point of order.

MR. SPEAKER : Is there any point of order at this point of time ?

SHRI NIRMAL KANTI CHATTERJEE : Yes, Sir. I am asking a question.

MR. SPEAKER : To whom are you asking the question ?

SHRI NIRMAL KANTI CHATTERJEE : I am asking this question to the Minister through you, and to you also.

MR. SPEAKER : Under what rule you can do that ?

SHRI NIRMAL KANTI CHATTERJEE : That rule which refers to the statement of the Minister. A Minister has made a statement on one day saying that he will do a certain thing. Now, he does not do that thing and he does not come to the House on his own saying that I am unable to do what I have promised to the House. In our paper today, there is no reference that the promise has not been kept for whatever reason. There is no mention that the Minister of Parliamentary Affairs will make a statement on what he had said on the 6th of August. So, what, under this rule, should be punishment meted out to the Minister ?

MR. SPEAKER : Under which rule are you talking about ?

SHRI NIRMAL KANTI CHATTERJEE : I want to benefit from your wisdom, because upto now we were referring to the constitutional crisis. Sir, the problem now is, it is the crisis of the Parliament. Please allow us, the Members of this side of the House to treat at least our colleagues of the Cabinet rank of that bench with honour and with respect so that we can

consider them to be our colleagues who are simultaneously trying to uphold the prestige of, what you referred to as, the highest institution in the country. I want your ruling on this.

MR. SPEAKER : What ruling do you want ? Which provision of law is violated ?

SHRI NIRMAL KANTI CHATTERJEE : I am not talking about law at all.

MR. SPEAKER : Then, what are you talking about ?

SHRI NIRMAL KANTI CHATTERJEE : I am referring to the rules.

MR. SPEAKER : Let me know which portion of the Constitution has been violated ?

SHRI NIRMAL KANTI CHATTERJEE : The Minister makes a statement and he does not do anything. So, what kind of punishment is provided for that ? (*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, I want to seek a clarification. Is it the intention of the Government of India that this matter will have to be resolved only through Courts ? I would like to know that very categorically. Let us assume that there is no Stay Order ultimately. Stay Orders are vacated by the Supreme Court. It can very well vacate the Stay Orders passed by the High Courts. Then, the 2nd August Order will be revived and there will be no elections. What will happen to the so-called ongoing elections ?

Sir, this is a very serious matter. Supposing the Stay Orders are confirmed by the Supreme Court, then elections will be held under the orders of the Court. Then, what will be the functions of the Election Commission ? I would like to know that. Is this a matter to be resolved by judicial processes ? As you said, Sir, very correctly—with all humility I agree with you—this is not only a matter for judicial determination. The Executive has to take a decision and the Legislature, if necessary, has to intervene. Therefore, will this matter depend on the exigencies of a Court litigation ? How elections, in future, will



be held? Who will hold these elections and in what manner? What will be the ambit of the rights of the Election Commission in this country? Can the entire election process in this country be stalled by an Election Commissioner? These are very important matters and until they are decided, nobody can control. We cannot control the Supreme Court and the Government cannot control the Supreme Court, as it ought not to control. Therefore, if it takes two months, three months or four months, we cannot dictate to the Supreme Court. Then the whole matter will remain in Limbo and we can only proceed with the conclusion that future elections will not be held in this country till the 18th of December, because, Sir, except the ongoing elections, no other election can be directed to be held by any agency other than the Chief Election Commissioner in this country. In future, no elections will be held because the Courts cannot direct the holding of elections. The Courts have only stayed the operation of an Order preventing the continuing of elections, because after the election process had started, the Chief Election Commissioner halted it. That temporary halt has been removed by temporary Orders.

Is the Government satisfied with this? Is it the solution of the problem? This has to be dealt with.

I would like to know from the Government how did they take the hon. Speaker's ruling and observations which we believe, are of far reaching importance for a solution of the crisis that has developed in this country. What is your response to the ruling?

SHRI LAL K. ADVANI : This issue has arisen today essentially because of the assurance given by the Minister of Parliamentary Affairs to the House in response to what Shri A. B. Vajjapee had suggested. Listening to the speech or the statement made by the Minister just now, it would seem that, according to the Government, the deadlock that was created has been practically resolved by the High Court, something which I cannot agree. I do not think that the deadlock was confined only

to these byelections. As we have pointed out on the very first day, the order said, "So long as the Government is adamant in respect of its interpretation of article 324 (6) and is not willing to accept the Commission's interpretation or is not willing to judicially determine it, there should be no elections including these byelections".

All of a sudden, we listen to the Minister telling us that because of the High Court has given this stay—Bombay High Court, Calcutta High Court, Madras High Court have given—therefore, we did not think it necessary even to come to the House. In fact, he should have come to the House on 6th August. After all, on the 5th August evening, if you came to know what Government in its wisdom thought that these High Court judgements are sufficient and there is no need of fulfilling the promise given to the House that we shall move to the Supreme Court for vacation of this order, or for stay of this order, you should have come on the 6th itself.

I can tell you yesterday I was in Madras and the Chief Minister told me that though the Single Judge has given a stay, he was inclined not to proceed further and he was thinking of referring the matter to a Bench because he was not willing to take all the responsibility so that for all practical purposes, the deadlock continues. And yet here we see, the promise is not fulfilled because they say, after the High Court judgements, the deadlock seems to be practically solved and there was nothing for this Government to move the Supreme Court.

This is a totally unconvincing reply and it only confirms the feeling of this House that there has been a categorical breach of promise.

SHRI VIDYACHARAN SHUKLA : Actually, there is no difference of opinion between the Opposition and the Government as far as this particular matter is concerned.

SHRI VISHWANATH PRATAP SINGH : There is very basic difference of opinion. There is a fundamental difference.

**SHRI VIDYACHARAN SHUKLA :**  
There is a broad agreement on this, which was actually borne out by you. I would like to clarify that we are bound by your ruling and we follow the ruling or whatever observations that you have made in this matter.

When I talk of the stay, what I have talked of the stay, it was of the temporary stay. It was not for resolving the deadlock. (*Interruptions.*)

Whenever we think about it, we always take your advice on this. We take your advice with full respect. Your advice is always available to us. We have never said anything contrary to such things. (*Interruptions.*)

When I have said about the Supreme Court, we wanted that the temporary stay should be taken so that the election process is not halted. When we found that the stay has already been given, the kind of stay that we wanted from the Supreme Court has already been given by various High Courts. It has been given by the other two High Courts also. Five High Courts have given this order. Therefore, we decided not to move the matter in that manner.

Secondly, the question of deadlock comes. That is not a permanent solution. We all know, this is not a permanent solution. It is only ongoing process of elections which has been halted. That has started moving now because of the temporary stay order which the High Courts have given. The permanent solution has to be found and we can do something about this, when the matter is brought up in the Supreme Court of India.

When the Chief Election Commissioner comes there with the suggestion to the Supreme Court of India, at that time, we will have to take a stand on this matter which will resolve this crisis. When the Supreme Court gets the response from the Chief Election Commissioner, then only we will be able to go to the Supreme Court and I can assure the hon. Members of this House that our stand will be in consonance

with their feelings. There is no difference between your feelings and our feelings as far as this particular matter is concerned.

**SHRI CHANDRA SHEKHAR (Ballia) :**  
I have no quarrel with the hon. Minister. He has every right to change his mind every minute. That has been the prerogative of this Government. They are not able to form their opinion on any crucial or critical matter.

The hon. minister has been repeatedly saying that there is no difference of opinion between what he says and the Opposition. I am not at liberty to discuss what happened in your Chamber. When all the Opposition leaders were present—fortunately or unfortunately, I was also present there—this matter was discussed in detail. I shall leave it to the Chair to give his own judgment and his own impression. What I ask is whether the impression that we got in that meeting has been fulfilled or even an initial step has been taken by the Government in that direction. I do not know what prompted the hon. Minister to make a statement. I was not present here. When I saw it in the press, I was not very much satisfied with it because the executive cannot derelict its own responsibility. I do not know whether my friends will be happy or unhappy. But the situation was the same before 6th of December when the Government of India all the time was referring everything to the Supreme Court and the judiciary. Executive has certain responsibility. They say that the Chief Election Commissioner will go with his point of view before the Court and they will react. Election Commission has, as I told you that day, given its categorical charge-sheet against your Government. You are known before the whole world that you are in the way of the proper functioning of the Election Commission. You are not allowing the free election. Have you to say anything on this point? I want to know whether the Government is satisfied with this situation that till the judiciary comes to their rescue they will not even defend themselves. I do not have any expectation from you that you will defend the Constitution, the Parliament

and the high norms of parliamentary behaviour. But cannot you defend your own or not ?

This is not the Government of Shri P. V. Narasimha Rao. This is the Government of India. He is the Prime Minister of this country. The opinion is there in the whole world that here is the Government which, according to constitutional authority, is not allowing free and fair elections. We are concerned about it. You have not come out even with a word. What have you to say on this ? What have you said on that day in the Chamber ? What have you said on the floor of the House ? How have you changed your mind ? It is for the people of this country and for the Members of Parliament to judge. It is your responsibility. With all humility, I can say, that on certain critical matters you will have to make your own observations. If you say there is no difference between the Government and the Opposition, it means there is no hope for this country.

SHRI SAIFUDDIN CHOUDHURY (Katwa) : What came out of this ?

SHRI TARIT BARAN TOPDAR (Barrackpore) : What is the result of this discussion ? What are we to understand from it ?

SHRI SOMNATH CHATTERJEE (Bolpur) : You are presiding over this House and this Constitutional crisis will continue and we will be sitting here.

SHRI TARIT BARAN TOPDAR : You give your ruling.

[Translation]

SHRI LAL K. ADVANI : Mr. Speaker, Sir, the hon. Minister should have apprised the House on 6th itself of the opinion of the Government that it does not intend to move the Supreme Court after the High Court judgement because nothing is clear in the newspapers. On 5th evening, we were thinking that the Government might have moved the Supreme Court. But when we enquired, we came to know that no application had been filed. Had you explained it on the 6th morning that the

Ministry of Law and you in your wisdom have decided that there was no need to move the Supreme Court, the matter would have ended there. Today, at least you should have expressed your regrets for not fulfilling your assurance and could have given reasons thereof. But you are not ready to do that also.

[English]

SHRI SOMNATH CHATTERJEE : I have ascertained from lawyers who appeared in that matter that no prayer was made.

SHRI TARIT BARAN TOPDAR : The hon. Minister is well aware of the fact that the Government is on bail.

SHRI BASUDEV ACHARIA (Bankura) : The hon. Minister is well aware of that fact.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : Why don't you take up this responsibility ?

SHRI SOMNATH CHATTERJEE (Bolpur) : There is one more fact. It is very important. The Government of India is only an intervenor before the Supreme Court. An intervenor cannot even ask for a stay before the Supreme Court. It is well-established that only a party can do it. They have not even bothered themselves to become a formal party. They have not initiated any proceedings. The decision of the Election Commissioner could have been challenged substantively by the Government of India by a Special Leave Petition on its own. Nothing has been done. (Interruptions)

[Translation]

SHRI NITISH KUMAR (Barh) : Mr. Speaker, Sir, the Prime Minister does not take the decisions and...\*\*

\*\*Not Recorded.

[English]

MR. SPEAKER : It is not going on record.

SHRI TARIT BARAN TOPDAR : It is a deliberate lapse.

MR. SPEAKER : On two points, I have to say something. On Manipur, I have to say that the Government should make a statement, please. The views expressed by the hon. Members also be taken into account while making the statement.

As far as this issue is concerned, I think it is not always good for the Speaker to go on saying things on matters like this. The Speaker should also restrain himself in pronouncing his decisions or judgements. All the same, if I have understood what you have said on the floor of the House, it is this that the steps that can be taken to hold the election should be taken. This is what you wanted to convey. If the elections have to be held, they should be held.

The second thing which, if I have understood correctly, is this that steps which can be taken should be taken to see that the stay order given by the Election Commission is removed. For this, you can have a recourse to the court of law or you can use your own machinery to see that it is withdrawn. As to how it has to be done, it is for the Government to decide.

The third point which comes out of this is the interpretation of Article 324(6). And, interpretation of Article 324(6) is something which cannot be done by the Government. It is something which cannot be done by the Parliament also. It has to be done by the Judiciary only. If it is done by the Judiciary at the apex, it is the proper thing. I hope that the final pronouncement on the authority will come from the Judiciary.

I think the House feels concerned because the constitutional crisis should not be continued. Anything which certainly can be done in this respect should be done by the Executive. I am sure that the system which we are following in India has the resilience to solve these kinds of problems. Maybe, there is a time and yet I do feel that it will be solved.

*(Interruptions)*

13.33 hrs.

PAPERS LAID ON THE TABLE

EXPLANATORY STATEMENT GIVING REASONS FOR IMMEDIATE LEGISLATION BY THE CONSUMER PROTECTION (AMENDMENT) ORDINANCE, 1993

*[English]*

THE MINISTER OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (SHRI A. K. ANTONY) : I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Consumer Protection (Amendment) Ordinance, 1993. [Placed in Library. See No. LT-4276/93]

NOTIFICATION UNDER WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1977; ANNUAL REPORT AND REVIEW ON THE WORKING OF THE PADMAJA NAIDU HIMALAYAN ZOOLOGICAL PARK, DARJEELING FOR THE YEAR 1990-91 ETC.

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE (SHRI ARVIND NETAM) (ON BEHALF OF SHRI KAMAL NATH) :

(a) A copy of the Notification No. G.S.R. 377(E) (Hindi and English versions) published in Gazette of India dated the 16th April, 1993 making certain amendments to Schedule I to the Water (Prevention and Control of Pollution) Cess Act, 1977 under sub-section (2) of section 16 of the said Act.

[Placed in Library. See No. LT-4277/93]

(2) (i) A copy of the Annual Report (Hindi and English versions) of the Padmaja Naidu Himalayan Zoological Park, Darjeeling, for the year 1990-91, alongwith Audited Accounts.

(ii) A copy of the Review (Hindi and English versions) by the Government on the working of the Padmaja Naidu