

12 hrs.

RE: MOTION FOR ADJOURNMENT

Shri S. M. Banerjee (Kanpur)
rose—

Shri Braj Raj Singh (Ferozabad):
Sir, may I seek a clarification? You have been pleased to write to me that the adjournment motion about the detention of Shri Prabhu Narain Singh, MP, relates to a matter of law and order which is a State subject. My submission is that under the Constitution of India, preventive detention is not at all a State subject. It is item 9 in the Union List and item 3 in the Concurrent List, which states:

“Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.”

Mr. Speaker: What is the number of that entry?

Shri Braj Raj Singh: It is item 9 of the Union List and item 3 of the Concurrent list. I have thoroughly studied the State List but do not find any entry in the State List which relates to preventive detention.

Then, this Parliament was pleased to enact this law and sub-section (4) of section 3 of that law says:

“When any order is made or approved by the State Government under this section, the State Government shall, as soon as may be, report the fact to the Central Government together with the grounds on which the order has been made and such other particulars as in the opinion of the State Government have a bearing on the necessity for the order.”

Then, clause (b) of sub-section (1) of section 13 says:

“notwithstanding that the order has been made by a State Government, by the Central Government.”

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Sub-section (1) of section 13 of the Preventive Detention Act says:

“Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may at any time be revoked or modified—”.

My submission is that this is not a matter of law and order. The Central Government is directly concerned with any preventive detention made in any part of India, whether it is a Centrally administered territory or it is a State of the Indian Union. So, the matter can very well be raised in this House.

I am not entering into the merits of the case. But if you so please I can also state that Shri Prabhu Narain Singh was here up to the 30th April. He reached Banaras at 1 P.M. on the 1st May. He was arrested on the evening of that day. For three months, during the whole of last session he was here in Delhi attending Parliament. On the 1st May he was arrested there. My submission is that a certain Minister, the Home Minister of Uttar Pradesh, comes from the same constituency from which Shri Prabhu Narain Singh has been elected to Parliament. He represents the same constituency in the State Assembly which Shri Prabhu Narain Singh does here and is the Home Minister of Uttar Pradesh. The State Government has been pleased to extend the period of detention of Shri Prabhu Narain Singh to one year. There is *mala fides* in the detention. So the responsibility of the Central Government comes in. I have shown the provisions under which the Central Government can intervene. Since the case is of an unusual nature, I would submit that the Central Government must intervene, look into the merits of the case and decide accordingly.

Shri S. M. Banerjee: I have a submission . . .

Mr. Speaker: I will not allow. The hon. Member thinks that he must

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take charge of every adjournment motion.

Shri S. M. Banerjee: There is no question . . .

Mr. Speaker: No, I am sorry.

Shri S. M. Banerjee: The rules are there after all . . .

Mr. Speaker: The rules are that I should not go on hearing every hon. Member . . . (Interruption). I am satisfied.

I want to ask a question of the hon. Member here. He said that it is in the Concurrent List. Does he mean to say that with regard to every item mentioned in the Concurrent List the Centre alone must deal with? Unless there is legislation passed here superseding that legislation, how else can the Centre do it?

It is in the Concurrent List, that is, preventive detention for reasons connected with the security of a State. If any State exercises the powers under the Concurrent List, it is the State's business. How can the executive at the Centre interfere with the discretion of the executive in the State? This Act provides various methods of making representations to the tribunal and so on. Why should not that hon. Member do so or why should not some other person on his behalf do so? How can we take charge of that?

Shri Braj Raj Singh: Could I submit that I referred to section 13 of the Act which we have passed? Clause (1) of this section says:

"Without prejudice to the provisions of section 21 of the General Clauses Act, 1897, a detention order may at any time be revoked or modified—

- (b) notwithstanding that the order has been made by a State Government, by the Central Government."

The Parliament with due purpose put this provision here. If certain State Government was of the view that certain person should be detained, the Central Government could intervene. I do not mean to say that under the Concurrent List the State Assembly was not competent to enact a law. But as a matter of fact in no part of India any State Assembly has enacted any law about preventive detention. It is this Parliament and this House alone which has enacted this law. Under this law we have provided for certain measures. This measure says that the Central Government could intervene at any stage notwithstanding that the order was passed by a State Government.

I have submitted that in this particular case the Home Minister of Uttar Pradesh comes from the same constituency from which Shri Prabhu Narain Singh has been elected to this House. I have also submitted that for three months he was here in Parliament. He reached there at 1 p.m. on the 1st May and in the evening he was arrested and detained for one year. The strange thing is that this law shall only be in force up to December, 1960 but the State Government is detaining him for one year. . . . (Interruption).

Mr. Speaker: How could I go on hearing all hon. Members? I am trying to make up my mind as to whether it is a case for adjournment. Apart from other matters, is it a case for adjournment?

An Hon. Member: Yes, Sir.

Mr. Speaker: Order, order. I am not going to hear all that. A case for adjournment is there only if it is the Centre's responsibility to intervene in this matter. No doubt under this law the Centre can do so, but there is no obligation, namely, that the Centre ought to do so. The Criminal Procedure Code is also passed by the Centre, but whenever the powers under the Criminal Procedure Code, section 144 and other things, are exercised by the State

Government we do not come here and charge this Government for having been indifferent. . . (Interruption).

There are certain Acts which are passed by the Centre, but the power is vested entirely in the executive of a particular State and they have got absolute discretion. Then there is a tribunal. They may go to the tribunal and get the order vacated if it is unreasonable. It is not the duty of the Centre to intervene. Therefore there is no question of an adjournment motion here. If the hon. Member wants that the Centre should take action, he may move a resolution here and if it is accepted by the House let the Centre do so . . . (Interruption).

Therefore no adjournment motion lies in it. An adjournment motion can be taken up only when the Centre has not discharged its duty that is cast upon it. There is no duty cast upon the Centre here to intervene in all these matters. It is a matter for the State Government. Of course, if the hon. Member wants the Centre to exercise their discretion, he may move a resolution but not an adjournment motion. That is all that I want to say.

Shri H. N. Mukerjee (Calcutta—Central): There is no intention to question the jurisdiction of the State Government so far as the application of the Preventive Detention Act is concerned, but the Centre has certain concurrent rights in this matter and the State Government always reports to the Centre cases of arrest under the Preventive Detention Act. What rather intrigues me, after I have heard my hon. friend, Shri Braj Raj Singh, is this, that here was an hon. Member of Parliament who, according to Shri Braj Raj Singh, was here in Parliament attending the Budget Session for nearly three months and on going home on the 1st May was arrested almost immediately. I do not want to go into the merits of the

matter but the circumstances involving an hon. Member of Parliament going back to his constituency after nearly three months of work in Delhi being suddenly whisked away and then being kept in jail continuously for more than a year—that is the intention of the order issued by the U.P. Government—all that sounds rather fishy. All this sounds rather fishy—I am very sorry to have to use that word. But I do feel that it being rather dubious, perhaps the Central Government might give us some material in regard to it, because they must have got an intimation from the State Government regarding the preventive detention, for perhaps a period of one year from today, of Shri Prabhu Narain Singh. That is why I feel there is perhaps some conceivable reason for the Centre to take note of this matter. And being in Parliament, we have no other mechanism, as far as I can understand it; the other instruments are not possible of being used as far as this kind of thing is concerned, and that is why this adjournment motion was brought.

Mr. Speaker: I will ask the hon. the Home Minister to gather information regarding this matter, because the Centre also can, if it likes, if there is some grave injustice, advise the State Government. It has got a concurrent jurisdiction. I would request the hon. the Home Minister to gather the facts and place them before the House as early as possible.

Shri S. M. Banerjee: It may be held over till tomorrow because the Home Minister is not here.

Mr. Speaker: There is no question of holding it over. I am satisfied that there is no case for adjournment. So far as this matter is concerned, let it not be kept pending. But I am sure whether this hangs over till tomorrow or not, all the same, when I request the Home Minister to make a statement, he is not going to say that the adjournment motion has been

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dismissed and therefore he is not going to make a statement. He will certainly gather the facts and make a statement as early as possible.

Shri Braj Raj Singh: May I make a submission? Under the provisions of law the matter has got to be reported to the Centre. Unless the Home Minister is there we will not be able to know what are the grounds on which the State Government has been pleased to detain Shri Prabhu Narain Singh. So let it be held over till tomorrow.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Sir, this matter has come up without any previous knowledge to me at any rate. I do not know if the Home Minister has any knowledge of this, but I have no information at all on the subject. Normally, as you were pleased to say, such matters do not come up in this House. But if it is a question of information being given, I am quite sure the Home Minister will try to find out what the facts are and place them before the House. I can convey your wishes to the Home Minister.

Mr. Speaker: Very well.

Shri Tyagi (Dehra Dun): The Deputy Home Minister is here.

Mr. Speaker: Has she already got any information regarding this?

The Deputy Minister of Home Affairs (Shrimati Alva): On the general allegations contained in the adjournment motion we have no information. But the other statement that the hon. Member made, that his detention has been extended by one year, is incorrect, because the Act itself expires on the 31st December of this year.

Shri Braj Raj Singh: That is my complaint.

Mr. Speaker: If it expires, it expires. I would request the hon. the Deputy Home Minister to write to the State

authorities and then as early as possible, in less than two days, to make a full report as to what exactly has happened in this matter. If actually the Act expires, how does it happen that it has been extended for one full year so far as the hon. Member is concerned?

Shrimati Alva: I am only correcting the statement made by him.

Shri Jawaharlal Nehru: I would submit that perhaps—I do not know—it may take more than two days, because one has to get information from another State. It is not available here. If it is available in a day or two, certainly we will place it. It may take three days.

Mr. Speaker: Very well, by next Monday.

Shri S. M. Banerjee: The detention will be there.

Mr. Speaker: The detention is not going to be reduced by three days or four days; it may not go on for a year.

12.15 hrs.

PAPERS LAID ON THE TABLE

ANNUAL REPORT OF ALL INDIA INSTITUTE OF MEDICAL SCIENCES

The Deputy Minister of Irrigation and Power (Shri Hathi): On behalf of Shri Karmarkar I beg to lay on the Table a copy of the Annual Report of the All India Institute of Medical Sciences for the year 1959-60, under Section 19 of the All India Institute of Medical Sciences Act, 1956. [Placed in Library. See No. LT-2260/60.]

NOTIFICATIONS ISSUED UNDER ESSENTIAL COMMODITIES ACT

The Deputy Minister of Food and Agriculture (Shri A. M. Thomas): I beg to lay on the Table a copy of each