

दिल्ली में स्वदेशी वस्तु-मण्डार

६७३. श्री रा० च० शर्मा : क्या

बाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या दिल्ली में एक ऐसा मंडार खोलने की कोई योजना है जहां सभी स्वदेशी वस्तुयें उपलब्ध होंगी ; और

(ख) यदि हां, तो यह योजना कब तक कार्यान्वित होगी ?

उद्योग मंत्री (श्री मनुभाई शाह) :

(क) जी नहीं ।

(ख) प्रश्न ही नहीं उठता ।

12.14 hrs.

MOTION FOR ADJOURNMENT

ORDINANCE PROMULGATED BY GOVERNOR OF ORISSA

Mr. Speaker: There is an adjournment motion tabled by Shri Chintamoni Panigrahi and Shri S. M. Banerjee which reads:

"Immediate need to discuss the Ordinance passed by the Governor of Orissa sanctioning more than four crores of rupees as supplementary grants for 1960-61 without giving an opportunity to discuss in the Lok Sabha in the absence of the State Legislative Assembly".

When was this Ordinance promulgated?

Shri Chintamoni Panigrahi (Puri): President's rule was promulgated on the 25th February. The Ordinance was passed on the 24th.

Mr. Speaker: One day earlier.

Shri Chintamoni Panigrahi: Yes. It has been said that the Governor has not been pleased even to send a copy of the Gazette Extraordinary . . .

Mr. Speaker: Was the Assembly in session then?

Shri Chintamoni Panigrahi: No, Sir. It was not in session.

Mr. Speaker: Before the Proclamation was issued, would it be competent for the Governor to promulgate the Ordinance?

Shri Chintamoni Panigrahi: I just want to bring it to your notice, and we want to discuss it. It has been said in the Proclamation that the power of the Legislature of the said State shall be exercisable by or under the authority of Parliament. The provision regarding the Governor exercising the power to promulgate an Ordinance is contained in article 213 of the Constitution. But in the Proclamation of the President, it has been specifically mentioned that with reference to article 213 in particular, references to the Governor, the Legislature or the Legislative Assembly of the State shall be construed as references to the President and to Parliament respectively.

Therefore, when there was no Assembly and President's rule was going to be promulgated and the Governor himself had recommended to the President that there was no possibility of the formation of any alternate Government, was it constitutional or regular on the part of the Governor to pass the budget of the supplementary demands for 1960-61 without giving an intimation to Parliament or letting us have an opportunity to know what the contents of the budget are? I submit it is highly irregular and improper on the part of the Governor to pass that budget by the Ordinance. I want to know whether he got any instructions from the President or the Prime Minister to pass the budget by Ordinance.

Mr. Speaker: Leave alone the Proclamation. When the Assembly was not in session, was it not open to the Governor to pass an Ordinance?

Shri Chintamoni Panigrahi: No, Sir, not to pass the budget.

Shri S. M. Banerjee (Kanpur): It has already come in the newspapers that the Centre had objected to it.

The Minister of Commerce and Industry (Shri Lal Bahadur Shastri): What the hon. Member has said has some substance. When this Ordinance was promulgated by the Governor, there was consultation amongst our officers as well as with the Law Ministry. The Governor took this action in consultation with the Chief Secretary and the Law Department of the State Government. He felt that some action was necessary in order to incur expenditure on the administration. But as I said, when the Ordinance was passed and it came to our notice, the Home Secretary immediately consulted the Prime Minister, and later on the matter was referred to the Law Ministry. The Law Ministry's opinion is that the Ordinance promulgated by the Governor is not valid under the Constitution. We immediately informed the Governor about this. Therefore, no action is being taken since then under the Ordinance.

Mr. Speaker: Has money been drawn?

Shri Lal Bahadur Shastri: No money is being drawn. We are very soon coming with the supplementary demands in this House and it will be for Parliament to approve of them, and then in accordance with the laws and the Constitution necessary action will be taken by them.

Shri S. M. Banerjee: The Chief Secretary misguided the Governor. It is very bad.

Mr. Speaker: There can be difference of opinion on the constitutional issue. There is no question of misguiding.

Shri H. N. Mukerjee (Calcutta-Central): Could I ask for a clarification? About 1954, when there was President's rule in Kerala, I remember we had a Committee of Members of Parliament from that State here to assist the President in regard to things which were going on, especially in regard to disbursement of funds. I wonder if Government on this occasion has in mind something like that

sort of procedure, because that makes sure of parliamentary control, as far as it can possibly be managed, in this predicament.

Mr. Speaker: I remember a Committee of Members of Parliament from Kerala was appointed to advise on all the Bills that were to be passed in this House. That ensured previous consultation. When the Proclamation comes up for discussion, some such statement will be made by the Government.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): This is a matter which can be discussed when the Proclamation is discussed.

Shri Mahanty (Dhenkana!): May I make a humble submission? I had no intention to make this submission, had you not been now the repository of the constitutional norms in Orissa.

Mr. Speaker: What is the submission?

Shri Mahanty: With this introduction, I am making my submission so that you may not feel impatient with me.

The point is that here we find the Governor being advised by the executive which, the hon. Home Minister says, was short of transgressing the limit of its office. Here is a very serious situation. We would like to know if the Governor's rule is going to be conducted in this fashion. If it is, it is high time that Parliament took notice of it and also the hon. the Home Minister felt satisfied as to the circumstances under which this kind of enormity could happen. That is my submission. Here is a very serious matter and we would like to know how the Governor could issue the Ordinance; even though he was not constitutionally and legally entitled to do so. This is a serious matter and I would like the hon. Home Minister to set at rest our doubts and apprehension, that my State would not be ruled in this kind of whimsical fashion.

Shri Jawaharlal Nehru: The hon. Member knows that lawyers differ and legal opinion differs. The legal opinion that was available to the Governor there was one and he acted up to it. He took the best legal opinion available there, because it was not a casual thing and something had to be done. Otherwise, every expenditure would become illegal. On the other hand, the lawyers we consulted here gave a different opinion, and we informed him. Naturally, he abided by the better opinion. This kind of thing might happen at any time. Nothing followed; that was rectified immediately.

Shri Narasimhan (Krishnagiri): Will that Ordinance lapse or has that been withdrawn?

Shri Jawaharlal Nehru: That also will depend on the consensus of legal opinion.

Mr. Speaker: No action will be taken. It is clear from what the hon. Home Minister has said that the better opinion seems to be that the Ordinance is illegal. Under article 204, Appropriation Bills can be passed regarding sums or grants made by the Assembly. When no grants are made by the Assembly, there is no question of drawing those moneys. The base itself is wanting. The better legal opinion seems to be that the Ordinance is illegal; and no action has been taken. Therefore, there is no need for me to give consent to the adjournment motion.

Regarding the advice which Shri Mahanty wanted to give me, I do not know of any single instance of irregularity. The Governor there was only anxious to avoid any irregularity and, therefore, passed that Ordinance. The hon. Member wants to draw an inference from this that the Governor is going to act illegally. Far from that. The conclusion is clear that he did not want to act illegally. Nothing more.

I will take his advice but I am not going to act upon it.

12:23 hrs.

PAPERS LAID ON THE TABLE

AMENDMENTS TO EMPLOYEES' PROVIDENT FUNDS SCHEME

The Deputy Minister of Labour (Shri Abid Ali): Sir, I beg to lay on the Table a copy of Notification No. G.S.R. 201, dated the 18th February, 1961 making certain further amendments to the Employees' Provident Funds Scheme, 1952, under sub-section (2) of Section 7 of the Employees' Provident Funds Act, 1952. [Placed in Library. See No. LT-2692/61.]

ANNUAL REPORTS OF COFFEE BOARD

The Deputy Minister of Commerce and Industry (Shri Satish Chandra): Sir, I beg to lay on the Table a copy of each of the following papers:—

- (i) Annual Report of the Coffee Board for the year 1957-58 (Vol. IV—Coffee Statistics relating to India). [Placed in Library. See No. LT-2693/61.]
- (ii) Annual Report of the Coffee Board for the year 1958-59 (Vols. I and II). [Placed in Library. See No. LT-2694/61.]
- (iii) Annual Report of the Coffee Board for the year 1959-60. [Placed in Library. See No. LT-2695/61.]

NOTIFICATIONS UNDER ESSENTIAL COMMODITIES ACT

The Deputy Minister of Food and Agriculture (Shri A. M. Thomas): Sir, I beg to lay on the Table a copy of each of the following Orders under sub-section (6) of Section 3 of the Essential Commodities Act, 1955:—

- (i) The Rice (Punjab) Second Price Control (Third Amendment) Order, 1961 published in Notification No. G.S.R. 197, dated the 18th February, 1961. [Placed in Library. See No. LT-2696/61.]
- (ii) The Rice (Madhya Pradesh) Second Price Control (Third