

**(MR. DEPUTY CHAIRMAN IN THE CHAIR)**

**श्री तरुण विजय :** माननीय उपसभापति जी, असम में भयानक लड़ाई हो रही है। ... (व्यवधान)... वहां पर कई लोग निर्वासित हो गए हैं और पाँच से ज्यादा लोग मारे गए हैं। ... (व्यवधान)... नागालैंड और असम में बॉर्डर युद्ध हो रहा है। ... (व्यवधान)... सरकार इसके बारे में क्या कर रही है? ... (व्यवधान)... असम-नागालैंड के बॉर्डर पर लोग निर्वासित हो गए हैं। ... (व्यवधान)... बताया गया है कि नागालैंड में 50 से भी ज्यादा लोग मारे गए हैं। ... (व्यवधान)... सरकार इस पर अपनी स्थिति स्पष्ट करे। ... (व्यवधान)... असम और नागालैंड के नागरिक भी अपने देश के नागरिक हैं, वे विदेशी नहीं हैं। ... (व्यवधान)...

**MR. DEPUTY CHAIRMAN:** Hon. Members, please sit down. It was decided in the Leaders' meeting that at 12 o'clock exactly we will take up the Constitution (Amendment) Bill. So, I am taking up further discussion on the Bill. .. (Interruptions)... It was decided that at 12 o'clock we will take up.

**PAPERS LAID ON THE TABLE**

**श्री राधा मोहन सिंह :** महोदय, मैं निम्नलिखित पत्रों की एक-एक प्रति (अंग्रेजी तथा हिन्दी में) सभा पटल पर रखता हूँ :-

- (i) Review by Government on the working of the #Indian Council of Agricultural Research (ICAR), New Delhi, for the year 2013-14.
- (ii) Statement giving reasons for the delay in laying the Annual Report of the Indian Council of Agricultural Research (ICAR), New Delhi, for the year 2013-14

**SHRI KIREN RIJJU:** Sir, on behalf of GENERAL (RETD.) V. K. SINGH: Sir, I lay on the Table, a copy each (in English and Hindi) of the following papers :—

- (i) Memorandum of Understanding between the Government of India (Ministry of Development of North Eastern Region) and the North Eastern Handicrafts and Handlooms Development Corporation (NEHHDC) Limited, for the year 2014-15.
- (ii) Outcome Budget, for the year 2014-15, in respect of the Ministry of Development of North Eastern Region.

**SHRI KIREN RIJJU:** Sir, on behalf of RAO INDERJIT SINGH I lay on the Table, a copy (in English and Hindi) of the Outcome Budget, for the year 2014-15, in respect of the Ministry of Planning.

**SHRI PRAKASH JVADEKAR** : Sir, I lay on the Table, under

---

# The Annual Report of the Indian Council of Agricultural Research (ICAR), New Delhi, for the year 2013-14, was laid on the Table on the 25<sup>th</sup> July, 2014.

Section 26 of the Environment (Protection) Act, 1986, a copy (in English and Hindi) of the Ministry of Environment, Forests and Climate Change Notification No. S.O. 1880 (E), dated the 22<sup>nd</sup> July, 2014, amending Notification No. S.O. 93 (E), dated 29<sup>th</sup> January, 1998, to substitute certain entries in the original Notification.

**डा. जितेन्द्र सिंह :** महोदय, मैं निम्नलिखित पत्र सभा पटल पर रखता हूँ :-

I. A copy each (in English and Hindi) of the following Notifications of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), under sub-section (2) of Section 3 of the All India Services Act, 1951:—

- (1) G.S.R. 511 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Administrative Service (Fixation of Cadre Strength) Fifth Amendment Regulations, 2014.
- (2) G.S.R. 512 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Administrative Service (Pay) Fifth Amendment Rules, 2014.
- (3) G.S.R. 513 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Police Service (Fixation of cadre Strength) Amendment Regulations, 2014.
- (4) G.S.R. 514 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Police Service (Pay) Amendment Rules, 2014.
- (5) G.S.R. 515 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Forest Service (Fixation of cadre Strength) Amendment Regulations, 2014.
- (6) G.S.R. 516 (E), dated the 18<sup>th</sup> July, 2014, publishing the Indian Forest Service (Pay) Amendment Rules, 2014.
- (7) G.S.R. 573 (E), dated the 8<sup>th</sup> August, 2014, publishing the All India Services (Conduct) Amendment Rules, 2014.

II. A copy each (in English and Hindi) of the following Notifications of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), under sub-section (2) of Section 62 of the Lokpal and Lokayuktas Act, 2013:—

- (1) S.O. 409 (E), dated the 15<sup>th</sup> February, 2014, publishing the Lokpal and Lokayuktas (Removal of Difficulties) Order, 2014.
- (2) S.O. 1840 (E), dated the 15<sup>th</sup> July, 2014, amending Notification No. S.O. 409 (E), dated the 15<sup>th</sup> February, 2014, to substitute certain entries in the original Notification.

III. A copy (in English and Hindi) of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Notification No. G.S.R. 501 (E), dated the 14<sup>th</sup> July, 2014, publishing the Public Servants (Furnishing of Information and Annual Return of Assets and Liabilities and the Limits for Exemption of Assets in Filing Returns) Rules, 2014, under Section 61 of the Lokpal and Lokayuktas Act, 2013.

IV. A copy (in English and Hindi) of the Fiftieth Annual Report of the Central Vigilance Commission (CVC), New Delhi, for the year 2013, under sub-section (3) of Section 14 of the Central Vigilance Commission Act, 2003.

V. A copy each (in English and Hindi) of the following papers:—

- (i)(a) Sixteenth Annual Report and Accounts of the Technology Development Board, New Delhi, for the year 2011-12, together with the Auditor's Report on the Accounts.
  - (b) Review by Government on the working of the above Board.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (i) (a) above.
- (ii)(a) Annual Report and Accounts of the Aryabhata Research

Institute of Observational Sciences, Nainital, for the year 2012-13, together with the Auditor's Report on the Accounts.

(b) Review by Government on the working of the above Institute.

(c) Statement giving reasons for the delay in laying the papers mentioned at (ii) (a) above.

(iii) Outcome Budget, for the year 2014-15, in respect of the Ministry of Earth Sciences.

**SHRI KIREN RIJJU** : Sir, I lay on the Table, under Section 77 of the Disaster Management Act, 2005, a copy (in English and Hindi) of the Ministry of Home Affairs Notification No. G.S.R 544 (E), dated the 30<sup>th</sup> July, 2014, publishing the National Disaster Management Authority (Term of Office and Conditions of Service of Members of the National Authority and Payment of Allowances to Members of Advisory Committee Amendment) Rules, 2014.

**श्री राधा मोहन सिंह** : महोदय, मैं निम्नलिखित पत्र सभा पटल पर रखता हूँ :-

I. A copy each (in English and Hindi) of the following Notifications of the Ministry of Agriculture (Department of Agriculture and Cooperation), under sub-section (6) of Section 3 of the Essential Commodities Act, 1955:—

(1) S.O. 1906 (E), dated the 28<sup>th</sup> July, 2014, publishing the Fertiliser (Control) Second Amendment Order, 2014.

(2) S.O. 1907 (E), dated the 28<sup>th</sup> July, 2014, regarding fixation of the specifications of Calcium Cyanamide to be imported into India for a period of one year from the date of publication of this notification.

(3) S.O. 1908 (E), dated the 28<sup>th</sup> July, 2014, notifying the specifications of the customized fertilizers for a period of

three years from the date of publication of this notification.

- (4) S.O. 1909 (E), dated the 28<sup>th</sup> July, 2014, regarding fixation of the specifications of 100 per cent Water Soluble Mixture of Fertiliser to be manufactured or imported into India.
- (5) S.O. 1910 (E), dated the 28<sup>th</sup> July, 2014, amending Notification No. S.O. 280 (E), dated the 28<sup>th</sup> January, 2013, to insert the certain entries in the original Notification.
- (6) S.O. 1911 (E), dated the 28<sup>th</sup> July, 2014, regarding fixation of the specifications of provisional fertiliser to be manufactured for a period of three years from the date of publication of this notification.

II. A copy (in English and Hindi) of the Ministry of Agriculture (Department of Agriculture Research and Education) Notification No. CAU/Reg/584/Ord/05, dated the February 1- February 7, 2014 (Weekly Gazette), regarding making of the first Ordinance for the manner of Conduct of the Convocation of Central Agricultural University, Imphal, under sub-section (2) of Section 43 of the Central Agricultural University Act, 1992.

**श्री सुदर्शन भगत :** महोदय, मैं निम्नलिखित पत्र सभा पटल पर रखता हूँ :-

I.(1) A copy each (in English and Hindi) of the following papers, under Section 25 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999:—

- (a) Annual Report and Accounts of the National Trust, New Delhi, for the year 2012-13, together with Auditor's Report on Annual Accounts.
- (b) Review by Government on the working of the above Trust.

(2) Statement (in English and Hindi) giving reasons for the delay in laying the papers mentioned at (1) above.

II. A copy each (in English and Hindi) of the following papers:—

- (i)(a) Annual Report and Accounts of the National Institute for the Visually Handicapped (NIVH), Dehradun, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.
- (c) Statement giving reasons for the delay in laying the papers mentioned at (i) (a) above.
- (ii)(a) Twenty-ninth Annual Report and Accounts of the National Institute for the Mentally Handicapped (NIMH), Secunderabad, Andhra Pradesh, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.
- (c) Statement giving reasons for the delay in laying the papers mentioned at (ii) (a) above.
- (iii)(a) Annual Report and Accounts of the National Institute for the Orthopaedically Handicapped (NIOH), Kolkata, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.
- (c) Statement giving reasons for the delay in laying the papers mentioned at (iii) (a) above.
- (iv)(a) Annual Report and Accounts of the Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai, for the year

2012-13, together with the Auditor's Report on the Accounts.

- (b) Review by Government on the working of the above Institute.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (iv) (a) above.
- (v)(a) Annual Report and Accounts of the Swami Vivekanand National Institute for Rehabilitation Training and Research, Cuttack, Odisha, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (v) (a) above.
- (vi)(a) Annual Report and Accounts of the National Institute for Empowerment of Persons with Multiple Disabilities, Chennai, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (vi) (a) above.
- (vii)(a) Annual Report and Accounts of the Pandit Deendayal Upadhyaya Institute for the Physically Handicapped, New Delhi, for the year 2012-13, together with the Auditor's Report on the Accounts.
- (b) Review by Government on the working of the above Institute.

- (c) Statement giving reasons for the delay in laying the papers mentioned at (vii) (a) above.
- (viii)(a) Annual Report and Accounts of the Centre for Rehabilitation Services and Research (CRSR), Odisha, for the year 2012-13, together with the Auditor's Report on the Accounts.
  - (b) Review by Government on the working of the above Centre.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (viii) (a) above.
- (ix)(a) Annual Report and Accounts of the Bhagwan Mahaveer Viklang Sahayata Samiti, Jaipur, Rajasthan, for the year 2012-13, together with the Auditor's Report on the Accounts.
  - (b) Review by Government on the working of the above Samiti.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (ix) (a) above.
- (x)(a) Annual Report and Accounts of the Narayan Seva Sansthan, Rajasthan, for the year 2012-13, together with the Auditor's Report on the Accounts.
  - (b) Review by Government on the working of the above Sansthan.
  - (c) Statement giving reasons for the delay in laying the papers mentioned at (x) (a) above.
- (xi) Memorandum of Understanding between the Government of India (Ministry of Social Justice and Empowerment, Department of Disability Affairs) and the National Handicapped Finance and Development Corporation (NHFD), for the year 2014-15.

---

(Ends)

**STATEMENT RE. IMPLEMENTATION OF THIRTIETH REPORT  
OF DEPARTMENT-RELATED PARLIAMENTARY STANDING  
COMMITTEE ON ENERGY**

**THE MINISTER OF STATE OF THE MINISTRY OF COAL (SHRI**

**PIYUSH GOYAL):** Sir, I make a statement regarding Status of implementation of recommendations contained in the Thirtieth Report of the Department-related Parliamentary Standing Committee on Energy on "Functioning of Central Electricity Regulatory Commission".

(Ends)

**STATEMENT RE. IMPLEMENTATION OF TWO HUNDRED AND  
FIFTY-FIRST REPORT OF DEPARTMENT-RELATED  
PARLIAMENTARY STANDING COMMITTEE ON SCIENCE AND  
TECHNOLOGY, ENVIRONMENT AND FORESTS**

**THE MINISTER OF STATE OF THE MINISTRY OF SCIENCE AND**

**TECHNOLOGY (DR. JITENDRA SINGH):** Sir, I make a statement regarding Status of implementation of recommendations contained in the Two Hundred and Fifty-first Report of the Department-related Parliamentary Standing Committee on Science and Technology, Environment and Forests on Action taken by the Government on the recommendations contained in Two Hundred and Forty-fourth Report of the Committee on Demands for Grants

(2013-14) pertaining to the Department of Scientific and Industrial Research.

(Ends)

**MOTION FOR ELECTION TO THE JOINT COMMITTEE ON  
OFFICES OF PROFIT**

**THE MINISTER OF LAW AND JUSTICE (SHRI RAVI SHANKAR PRASAD):**

I beg to move the following motion:—

"That this House concurs in the recommendation of the Lok Sabha that a Joint Committee on Offices of Profit be constituted for the purposes set out in the Motion adopted by the Lok Sabha at its sitting held on the 1<sup>st</sup> August, 2014 and communicated to this House, and resolves that this House do join in the said Joint Committee and proceed to elect, in accordance with the system of proportional representation by means of the single transferable vote, five Members from among the Members of the House to serve on the said Joint Committee.

**The question was put and the motion was adopted.**

(Ends)

**MR. DEPUTY CHAIRMAN:** Now, we will take up the Constitution (One Hundred and Twenty-first amendment) Bill, 2014.  
..(Interruptions)...What is your point? ..(Interruptions)..

(Followed by 1 o/VK)

VK-PSV/10/12.05

**SHRI BHUBANESWAR KALITA:** Sir, the sense of the House was taken.

**MR. DEPUTY CHAIRMAN:** What is your problem?

**SHRI BHUBANESWAR KALITA:** The Chairman has given a ruling that we have enough time to raise our issues. Sir, the Chairman has given a ruling that the Chair will allow us to raise our issues besides this Bill. We are very serious about this Bill. But, at the same time, we should be allowed to raise our issues.

**MR. DEPUTY CHAIRMAN:** No, no. Please take your seats. All others sit down. ...(Interruptions)... I am giving the floor to Shri Kalita. What is your problem?

**SHRI BHUBANESWAR KALITA:** Sir, the Chairman in the morning has given an assurance that besides this Bill other issues of public importance will also be allowed to be raised in the House. Now, the issue that I want raise is about violence at Assam-Nagaland border.

**MR. DEPUTY CHAIRMAN:** Now, please sit down.

**SHRI BHUBANESWAR KALITA:** In the last few days, a number of people have ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** Not now. The Chairman did not say at all that...(Interruptions)...

**SHRI BHUBANESWAR KALITA:** The situation is very serious. The Government of India has to take it seriously.

**MR. DEPUTY CHAIRMAN:** Please sit down. Let me say something. ...(Interruptions)...

**SHRI BHUBANESWAR KALITA:** Sir, please allow the Members to speak for a few minutes.

**MR. DEPUTY CHAIRMAN:** Please take your seat. Mr. Karimpuri, what is your point? What do you want to say?

**SHRI AVTAR SINGH KARIMPURI (UTTAR PRADESH):** \* Hon'ble Deputy Chairman, Sir, last week, I had raised a point in the house, where a baptised Sikh student wearing kirpan 'a Sikh religious symbol' was not allowed to appear in the Pre-Medical Entrance Test at Kota in Rajasthan.

**MR. DEPUTY CHAIRMAN:** You have raised it here. You have already raised it in the House. ...(Interruptions)... I am not allowing it.

**श्री अवतार सिंह करीमपुरी:** सरकार ने एश्योर किया था कि वह हाउस में इसका जवाब देगी। ...(व्यवधान)... सरकार ने कहा था कि वह इसका जवाब देगी। ...(व्यवधान)...

**MR. DEPUTY CHAIRMAN:** You have already raised it. Please sit down. ...(Interruptions)... You had raised this issue and I myself had observed from the Chair that the Government may look into it and take necessary action..

**SHRI AVTAR SINGH KARIMPURI:** Sir, today is the last day of the Session. ...(Interruptions)...

---

\*English version of the original speech made in Punjabi

**MR. DEPUTY CHAIRMAN:** Please sit down. ...(Interruptions)... I am not allowing like that. Please listen to me. See, the issue raised by Shri Karimpuri is a question of discrimination on the basis of race or caste, whatever it is. I hope the Government will take note of it and do the needful.

Hon. Members, the leaders of all parties met in the morning in the presence of the hon. Chairman, and have decided that at 12 o'clock, we will take up the Constitution (Amendment) Bill. Now, it is already 12.05 p.m. So we have to take it up. Then the time allotted for the Bill was three hours. Already, one hour and 36 minutes are over and what remains is one hour and 24 minutes. So, we have to dispose of this Bill within that allotted time, in a maximum of one hour and 30 minutes. Then it was also agreed in the morning meeting that we will do away with the lunch hour. So, this is what the leaders of all parties decided. Therefore, I will take up this discussion now. All the Members will have to restrict to the time limit. Please be brief in your speech and just focus on bullet points so that before 1.30 p.m. we can start the voting process. As it is a Constitutional Amendment, a Division has to be taken. After the Constitution (Amendment) Bill is passed, the Government can move the other Bill. At that time, when we take up that Bill, if the

Members have a view on that, I will allow it at that time. With regard to the issue raised by Shri Kalita, if the hon. Chairman has stated that other issues will be allowed to be raised, after both the Bills are disposed of, I will sit for some more time and allow him. There is no problem.

**SHRI SATISH CHANDRA MISRA:** Sir, the reply to the Discussion on the Working of the Ministry of Women and Child Development could not be done yesterday. As the House is adjourning today, the reply to the Discussion may not be taken up. Please give a decision that if the reply cannot be taken up today, it will be taken up in the next Session.

**MR. DEPUTY CHAIRMAN:** I think that is a very reasonable demand.

**THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI M. VENKAIAH NAIDU):** Sir, that will be done.

**MR. DEPUTY CHAIRMAN:** Yes, it was a very important discussion and everyone is interested in the reply. So, if we cannot take it up today, if the House agrees, it will be taken up in the next Session. Before I take up the Bill, the hon. Finance Minister has to move a Motion.

(Followed by 1P)

**THE INSURANCE LAWS (AMENDMENT) BILL, 2008**

**THE MINISTER OF FINANCE (SHRI ARUN JAITLEY):** Sir, I move the following motion:-

“That the Bill, further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999, as introduced in the Rajya Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:—

1. Dr. Chandan Mitra
2. Shri Mukhtar Abbas Naqvi
3. Shri Jagat Prakash Nadda
4. Shri Anand Sharma
5. Shri B. K. Hariprasad
6. Shri Jesudasu Seelam
7. Shri Satish Chandra Misra
8. Shri K. C. Tyagi
9. Shri Derek O’ Brien
10. Dr. V. Maitreyan
11. Prof. Ram Gopal Yadav
12. Shri P. Rajeeve
13. Shri Kalpataru Das
14. Shri Naresh Gujral
15. Shri Rajeev Chandrasekhar

with instructions to report to the Rajya Sabha by the last day of the first week of the next Session”.

*The question was put and the motion was adopted.*

(Ends)

**THE CONSTITUTION (ONE HUNDRED AND TWENTY-FIRST  
AMENDMENT) BILL, 2014 – (CONTD.)**

**श्री शरद यादव (बिहार):** उपसभापति महोदय, मैं एक ही निवेदन करना चाहता हूँ कि आज़ादी के बाद की जो हालत है और जो लोग बिल के हक में बोले हैं, उसके बारे में मुझे कुछ नहीं कहना है, वह ठीक है। जो तरुवर है, जो वृक्ष है, उसके ऊपर की बातें काफी हो चुकी हैं और मैं उससे सहमत हूँ, मैं उससे असहमत नहीं हूँ, लेकिन मैं रवि शंकर प्रसाद जी से कहना चाहता हूँ कि यह देश जो है... आप जो National Judicial Appointments Commission Bill लाना चाहते हैं, उसके संबंध में मैं आपसे इतना ही कहना चाहता हूँ कि 1993 के पहले जो सिस्टम था और जो अब आप ला रहे हैं, उससे मैं असहमत नहीं हूँ, लेकिन मैं एक ही बात आपको बताना चाहता हूँ कि इस देश की 80 फीसदी, 85 फीसदी लोगों की इस पूरे सिस्टम में, जुडिशियल सिस्टम में भागीदारी कितनी है। अरुण जी, पंचायत तो बहुत दूर है ...(व्यवधान)... मैं यह निवेदन करना चाहता हूँ कि 68 वर्ष में देश के जितने चीफ जस्टिस हुए हैं, वे 52 हैं। मैं बाकी लोगों का नाम नहीं लूंगा, लेकिन उनमें बैकवर्ड क्लास के जो जज हुए, वे एक को छोड़ कर जीरो हैं। बैकवर्ड क्लास का मतलब है, किसानों का मतलब है दो-तिहाई लोग। एससी

के सिर्फ दो हैं, एसटी के एक हैं और मुस्लिम पांच हैं। यह लगभग 80-85 फीसदी ... अरुण जी, आपका दृष्टिकोण अब खुल गया है। यह हालत है। रवि शंकर जी तो हमारे बीच में पैदा हुए हैं। ये जानते हैं, लेकिन इनका हृदय आज तक प्रेम और मोहब्बत से .... मैं उस आबादी का आदमी नहीं हूँ। मेरी त्रासदी यह है कि उसके हक में मुझे खड़ा होना पड़ता है। यानी भारत सरकार के 52 चीफ जस्टिस हुए, उनमें इनकी हाजिरी 80 फीसदी है, लेकिन चीफ जस्टिस के मामले में एक जगह भी इनको मुहैया नहीं हो पायी। यदि एक-आध को हो गई है, तो वह 32 दांतों के बीच में है।

(1q/DS पर जारी)

DS-SSS/12.15/1Q

**श्री शरद यादव (क्रमागत):** उसकी कोई हैसियत नहीं है। मान लीजिए, यदि कोई यूरोप चला जाएगा तो उनके जैसे ही उसे जीना पड़ेगा। अब मैं देश के सुप्रीम कोर्ट के फॉर्मर जज के किस्से बताता हूँ। ये टोटल 145 हैं। मेरे लिहाज से इनमें बीसी ज़ीरो हैं। यदि आपको कोई आँकड़ा मिल गया हो, कोई aberration में आ गया हो तो उसे आप मुझे बता देना। इसी तरह से, शेड्यूल्ड कॉस्ट भी ज़ीरो, एसटी भी शून्य और मुस्लिम 10 हैं। बाकी सब.. बताइए, बताइए।

**नेता सदन (श्री अरुण जेटली):** आप चेक कर लीजिए, यह गलत है। कम हैं, लेकिन हुए हैं। ..(व्यवधान)..

**श्री शरद यादव:** कोई aberration होगा तो होगा, लेकिन उसका कोई मतलब नहीं है। मैं तो यह इसलिए कह रहा हूँ कि मैंने रात भर में इसको देखा है और

यह हो सकता है कि कम्प्यूटर पर मैंने जो देखा है, वह गलत हो। इसीलिए मैंने रवि शंकर जी से कहा कि जो गलत हो गया हो, उसे करैक्ट कर देना। मैं इस सारे सिस्टम को गहराई से देखने की बात कह रहा हूँ, क्योंकि यह एक जंजाल है और कहाँ-कहाँ कितनी जातियाँ हैं, यह ढूँढ़ना मुश्किल है। जो हाई कोर्ट जजेज हैं, वे 146 हैं। बाकी जो बन गए हैं, वे तो हजारों सालों से राज कर रहे हैं, उनकी संख्या अगर मैं गिनाऊँ तो कोई फायदा नहीं होगा। अगर मैं इसे गिनाता हूँ तो इससे फासला बढ़ता है और मन को चोट पहुँचती है। जो चला रहे हैं, उनके मन पर भी और जो बाहर हो गए हैं, उनके मन पर भी चोट पहुँचती है। हाई कोर्ट के जो फॉर्मर जजेज हैं, वे 146 हैं। उसमें भी हालत कमोबेश एक, जीरो, यानी बैकवर्ड क्लास के जीरो, एक या दो हैं, उन्हें मैं खुद जानता था, लेकिन बाकी एससीज़/एसटीज़ और मुस्लिम, मुझे लगता है कि उसमें नौ से ज्यादा हैं। टोटल 343 हैं। वीकर सेक्शन के जो टोटल लोग हैं, उनमें शेख्यूल्ड कास्ट के दो, बीसी जीरो, मुस्लिम 24 और क्रिश्चियन चार हैं। ..(समय की घंटी).. सर, क्या समय खत्म हो गया?

**MR. DEPUTY CHAIRMAN:** Take two more minutes.

**श्री शरद यादव:** इस सदन में आकर मैं बहुत तंग हो गया हूँ। इस वक्त की पाबंदी के चलते और चार-पाँच लोग डंडा लेकर खड़े हो जाते हैं। मैं एक बात पूछना चाहता हूँ कि देश के जो ये लोग हैं, अगर इनकी मजबूती नहीं हुई तो यह देश कैसे मजबूत हो जाएगा? कैसे, यह आप मुझे बता दीजिए। जब यह आज़ादी आई, तो इसका यह मक़सद था, जिस तरह से इंसान का संपूर्ण शरीर जब पूरा मजबूत होगा, तभी तो वह सड़क पर चलेगा। कोई कहे कि

आँख गड़बड़ है तो चल जाएगा, पैर गड़बड़ है तो चल जाएगा, लेकिन वह नहीं चल सकता। यह विकलांग है, रवि शंकर जी। इसलिए मेरे कहने के बाद आपने कहा है कि इसमें जो एमिनेंट पर्सन्स लेंगे, उनमें एक महिला लेंगे और एक इन 80 फ्रीसदी एससीज़, एसटीज़ और ओबीसी लोगों में से लेंगे। यानी, आप दो लोगों को लेंगे। उनमें से एक को तो आप माइनस कर ही दीजिए, क्योंकि आप एक महिला लेंगे। आपकी दृष्टि से, आपकी नहीं, बल्कि सिस्टम की दृष्टि से, इस व्यवस्था में हम सब लोग ऐसे जकड़े हुए हैं कि इसमें हम भी इतने दिनों से हैं, लेकिन इसको सुधार नहीं पाते हैं। जब महिलाओं का मामला आएगा, तो जो महिलाएँ ऊँचे तबके की हैं, वे आगे रहेंगी। अगर आप सोचते हैं कि आदिवासी महिला उनके बराबर हो जाएगी, दलित महिला उनके बराबर हो जाएगी, बैकवर्ड क्लास की महिला उनके बराबर हो जाएगी, तो यह ठीक नहीं है। राम गोपाल जी की पत्नी से आप कहेंगे कि राम गोपाल जी जैसा बोल लो, तो कठिन हो जाएगा। ..(व्यवधान).. दिक्कत है हमारी, ..(व्यवधान).. यानी इन लोगों की दिक्कत है। ..(व्यवधान)..

**एक माननीय सदस्य:** इनसे अच्छा बोलती हैं। ..(व्यवधान)..

**श्री शरद यादव:** आप जानते नहीं हैं इसलिए बोल रहे हैं, हम जानते हैं, वे कोई कम अक्ल की नहीं हैं।

**श्री उपसभापति:** शरद जी, आपका टाइम खत्म हो गया है।

**श्री शरद यादव:** क्यों हमें तंग कर रहे हैं? हम जो बात कह रहे हैं, वह नई बात कह रहे हैं। आप यह सिस्टम ला रहे हैं। 1993 के पहले एक सिस्टम था,

फिर 1993 के बाद दूसरा सिस्टम आया। जस्टिस वर्मा और मैं, हम दोनों एक साथ जबलपुर गए थे।

(1आर/एमसीएम पर जारी)

-DS/MCM-KGG/1R/12-20

**श्री शरद यादव (क्रमागत) :** वे अपना माथा ठोकते थे कि मैंने क्या कर दिया, यह जो मेरा कॉलेजियम सिस्टम वाला है, वह तो और बेकार हो गया, पहले से भी बेकार हो गया। मैं आपके इस बिल के हक में हूँ। कांस्टीट्यूशनल अमेंडमेंट के हक में भी हूँ और यह जो आप नेशनल ज्युडिशियल एपाइंटमेंट्स कमीशन बनाना चाहते हो, उसके भी हक में हूँ। लेकिन इस हक के बाद अंधेरा है, यह आबादी इंसानों की है या नहीं है, यह जनता आपकी है या नहीं है, इससे वोट लेते हैं या नहीं लेते, यह लोकतंत्र जो है और इस सदन में मेरी बात सुनने वाले जो लोग हैं, जो पिछड़े हैं, दलित हैं, उनके हक वे खुद नहीं ले पाते। मुसलमान तो बोल लेते हैं, लेकिन उनकी आवाज जो है....., मैं इस सैक्शन से नहीं हूँ, मैं इंजीनियरिंग कॉलेज में किसी रिजर्वेशन से नहीं, मेरे बाप-दादा भी नहीं, मेरे भाई भी नहीं, मैं तो आपकी जैसी जमात का आदमी हूँ। मधु लिमये चले गए, डा0 लोहिया चले गए, अब अरुण जेटली भी समझते हैं लेकिन बोलते नहीं हैं।.....(समय की घंटी).....

**श्री रवि शंकर प्रसाद :** मैं बोलता हूँ।

**श्री शरद यादव :** आप बोलते हैं मेरे पास अलग से, यहां आप भी नहीं बोलते, क्योंकि आप जकड़े हुए हो। डिप्टी चेयरमैन सर,.....(व्यवधान)

**श्री उपसभापति :** समाप्त कीजिए।

**श्री शरद यादव :** आप जो नेशनल ज्युडिशियल एपाइंटमेंट्स कमीशन बना रहे हो, इससे उनको कोई फर्क नहीं पड़ेगा, जिन लोगों के बारे में आपने चर्चा की है। उनके हक में आप इसमें छः सदस्य रख रहे हो, उसको आठ कर दो, क्या बिगड़ रहा है आपका? इतना बड़ा 120 करोड़ का देश है, इन लोगों को कब तक मारोगे और कब तक कहोगे? अभी आप कहेंगे कि नहीं, हम उनका ख्याल रखेंगे। उनका ख्याल तो 68 वर्ष में सब लोग, हम लोग रख रहे हैं। उनका कहां ख्याल हुआ? मैंने जो आपके सामने आंकड़े दिए, इसलिए मेरा आपसे निवेदन है कि इस देश में ये हजारों साल से सह रहे हैं, लेकिन इन्होंने आपके साथ कभी तक रार नहीं किया।.....(व्यवधान)

**श्री उपसभापति :** बस, हो गया।

**श्री शरद यादव :** अरे, क्यों इनको, इस तरह से ... अब इनमें होशबंद लोग हो गए हैं, काबिल लोग भी हो गए हैं। ये सारे छः सदस्य होंगे, एक सिस्टम से होंगे। मेरी विनती यह है कि आप इस मामले का कोई रास्ता निकालिए, तो फिर देश में ये दोनों सिस्टम फेल हुए हैं, कोई ऐसा सिस्टम आए कि सामाजिक विषमता के मामले को भी ख्याल में रखें। आर्थिक विषमता और सामाजिक विषमता दोनों में कोई फर्क नहीं है। ये दोनों चीजें आप यदि साथ लेकर नहीं चलेंगे तो मुल्क नहीं बनता, यही मेरी आपसे विनती है और आप तो इस बात को समझने वाले मंत्री हैं। यदि आपके मन में यह बात आ गई, यह संकल्प हो गया तो बात दुरुस्त हो जाएगी। बहुत-बहुत शुक्रिया, बहुत-बहुत धन्यवाद।

(समाप्त)

**SHRI A. NAVANEETHAKRISHNAN (TAMIL NADU):** Thank you, Mr. Deputy Chairman, Sir. I deem it a great privilege to stand in this august House to speak on the Constitution (One Hundred and Twenty-first Amendment) Bill, 2014, Bill No. 97 of 2014. I thank the hon. Law Minister for referring to the letter written by hon. Chief Minister Amma regarding this Bill. No more collegium system, thanks to the Central Government. The collegium system for appointment of judges is against the concept of the rule of law. Hon. Chief Minister Amma recommended that Judicial Appointments Commission should function at two levels—at the national-level and at the State-level—which is contained in the letter written to the hon. Law Minister. The National Judicial Appointments Commission is for the Supreme Court judges and the State Judicial Appointments Commission is for the High Court judges.

Article 214 as well as Article 217 are amended by this Constitutional Amendment. Article 214 deals with the appointment of Supreme Court judges and Article 217 deals with the appointment of High Court judges. As per this Constitutional Amendment, the Central Government's role is protected because it was taken away by the collegium system. Now, my grievance is

that the State Government role must be again restored by including an amendment to create the State-level Judicial Appointments Commission.

(Contd. By TDB/1S)

TDB-HMS/1S/12.25

**SHRI A. NAVANEETHAKRISHNAN (CONTD.):** Sir, that is my humble submission because that has been very vehemently recommended by our leader Amma in her letter to the hon. Law Minister. It is because the State Government is in a position to locate or find out the right candidates from the depressed classes, namely, minorities, women, backward classes, Scheduled Castes and Scheduled Tribes.

Sir, in our State, the hon. Chief Minister Amma is implementing the 69 per cent Reservation Policy in the judicial appointments also. It is done through the State Public Service Commission, and also the District Judges are selected by the High Court. So, in all judicial appointments, 69 per cent reservation is being followed. Because of this reservation, Scheduled Caste, Scheduled Tribe, backward class and most backward class candidates are able to occupy judicial posts at the State Judiciary

level. It is a well known fact that the High Court Judges' posts and Supreme Court judges' posts are not available to the novice practitioners of law and also not available to the common man. Because of the effective implementation of the 69 per cent Reservation Policy by the hon. Chief Minister Amma, now the 69 per cent reserved community people are occupying the judicial posts in the State of Tamil Nadu. In the 24 High Courts, the total strength of posts of judges is 906. Out of these 906 posts, 1/3<sup>rd</sup> of the total strength of the posts is filled up by judicial officers, the officers who are in the subordinate judiciary. So, 1/3<sup>rd</sup> strength must be filled up by the subordinate judiciary. That guarantee must be given by the hon. Law Minister by way of amending the Constitution itself. If it is done, then, the already judicially trained people can occupy the posts of High Court judges and also from the High Court, they can go to the Supreme Court.

Sir, the hon. Chief Minister Amma is very strictly following the Reservation Policy in order to uplift the downtrodden. That is why I am stressing it again and again at the risk of repetition. Sir, as per Article 217 of the Constitution, the consultation is only with the Chief Justice of India and the Governor. In this context, I would like to say that the hon. Law Minister knows it better than me that the

Governor means the Council of Ministers. The advice offered by the Council of Ministers is to be forwarded by the Governor to the President. So, the role of the State Government must be protected. This is my humble request to the hon. Law Minister. I am doing it at the risk of repetition.

Sir, I had the privilege of assisting our hon. Chief Minister in one of the cases. Hence, I am taking the privilege, and again I am requesting him that the role of the State Government must be restored and preserved in the process of selection of High Court judges. Sir, at the State level Judicial Appointments Commission, the hon. Chief Minister must be included as one of the members of this Commission, and the views of the Chief Minister must bind the Commission. So, it must be given due weightage. I am saying this because the State Government is accountable and answerable to the people. The State Government is in a better position to identify the right candidates. This is my humble request to the hon. Law Minister. If it is done, then, the downtrodden people can come to occupy the higher posts of the High Court Judges and Supreme Court Judges. This is my humble submission. (Time-bell)

**MR. DEPUTY CHAIRMAN:** Only one more minute.

**SHRI A. NAVANEETHAKRISHNAN:** Okay, Sir. Our hon. Chief Minister is more judicious in her action and thought. She is more judicious than any other judicial institution of our nation. Because of her, many lawyers from the rural areas are now practising in the High Court of Madras. She has given them appointment very liberally. That is why I request the hon. Law Minister to include it in the Constitution (Amendment) Bill for creation of State-level Judicial Appointments Commission. Thank you very much, Sir.

(Ends)

(Followed by 1T-KLS)

KLS/1T-12.30

**THE LEADER OF THE HOUSE (SHRI ARUN JAITLEY):** Mr. Deputy Chairman, Sir, since yesterday we have been debating the Constitution Amendment to deal with the procedure for appointment of Judges to the highest courts of the land, the Supreme Court and the High Courts. Intervening on behalf of the Government, let me at the very outset clarify that neither the Government, and I am sure, nor this House also, almost in one voice does not see this as a turf battle. It is not an issue as to who really has the power to appoint Judges. We are concerned with the mechanism under which there are adequate checks and balances,

and, therefore, we are able to resultantly appoint the best possible talent which is available as Judges. I may clarify that there is no effort either on behalf of this House or the Government that we are going back to a system of Executive primacy. We have seen the Executive primacy in this matter and, therefore, whether it was supersession of Judges in 1973, the transfer of Judges during the Emergency in 1975, the supersession again in 1977 in the matter of the appointment of Chief Justice, we have seen that system. Therefore, there is no question of anybody supporting the idea of any form of Executive primacy in the matter of appointments. It is normally being argued and there is some substance in the argument that in the interest of independence of Judiciary, which is a part of the basic structure of the Constitution, there should be an element of primacy of the judicial institutions. If it was only linked to primacy, and an effective consultation with the Executive, probably, this amendment would not have been necessary. Why is that when this amendment was debated yesterday in the other House, in one voice the entire House spoke in favour of the amendment? Effectively what is today happening is that the procedure of judicial appointments is not through a procedure of judicial primacy with effective consultation with the Executive, it has virtually boiled down

to a system of judicial exclusivity in the matter of appointments. The role of other institutions, which the Constitution envisages, is also negligible. Sir, let us just go back to Article 124 which deals with the appointment of Judges to the Supreme Court and Article 217 which deals with the appointment of the Judges of High Courts. Article 124 (2) -- I may be pardoned for reading it -- says that 'every Judge of the Supreme Court shall be appointed by the President by warrant..', so, it emphasises the words 'appointed by the President', which means appointed by the Government, '..under his hand and seal after consultation with Judges of the Supreme Court..', so, the President, that is, the Government will consult the Judges of the Supreme Court, '..and of the High Courts of the States as the President may deem necessary for the purpose and shall hold office until he attains the age of 65 years, provided that in the case of appointment of a Judge other than a Chief Justice, the Chief Justice shall always be consulted.' Translated into simple English language, the provision was, the President, that is, the Government will appoint the Judges. The Government will consult such Judges of the Supreme Court as also of the High Court and after that consultation appoints the Judges of the Supreme Court. Effectively when the Government sought, from

1950 onwards or as the Constitution came into force, the advice of the Supreme Court in the matter of the appointment of the Judges of the Supreme Court, invariably the Government accepted that advice.

(Contd by 1U/USY)

USY/1U/12.35

**SHRI ARUN JAITLEY (CONTD.):** It was only in the 1970s that some difficulties arose. The judicial institution was the institution to be consulted. Due weightage was always given to that consultation. And, inevitably that consultation prevailed. The Government never replaced it by names of its own choice. Through the 1950s and 1960s, this system continued. Similarly, in the context of the High Court appointments, Article 217 says, "Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal after consultation with the Chief Justice of India, the Governor of the State, and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court...". So, in the case of a High Court appointment, the President will consult the Chief Justice of India. He will consult the Chief Justice of the High Court. He will also consult the Governor, which means on the aid and advice of the

Council of Ministers; so, the Chief Minister of the State. And, after consulting all these people, he will appoint the Judges. Here, again, whatever the judicial institution said was normally given primacy and that was accepted. Effectively, post 1993, how has this worked? The 1993 judgement changed the Constitution by re-writing it. The argument was that the larger interest is the independence of the Judiciary. So, in the context of independence of Judiciary, because that is the object, we read the two Articles — the President, that is, the Government will appoint such Judges as the Supreme Court will suggest. In case they have a contrary opinion, they can send their contrary opinion once. If the Supreme Court reiterates, they have no choice but to appoint them. This is the judgement of 1993. We have had the Congress Government, the UPA Government, the United Front Government and the NDA Government in the past. I am sure, the experience of all the Governments has been the same that in effect the way the judgement is working is not what Article 124 and Article 217 say. The basic structure of the Constitution is the original Constitution that the President will appoint, in consultation. Today, we re-wrote the Constitution by virtue of the judgements to say that the Judges will appoint Judges. They will, probably, take the views of the

Executive, in the process. And, the way it has worked out, the Indian system is clear: Judges appoint Judges. There is a marginal role of 'consultation' with the Executive. There is hardly a role which a Governor or a Chief Minister has. A letter is written and their views are taken. But their views are very rarely put into any effective consideration. And, if the Executive has a contrarian view and there is a strong reason for that contrarian view and it conveys it to the judicial institution, it is supposed to be considered, under the Judgement. But, effectively, the due regard, which should have been given to it, has normally not been given. I can quote umpteen examples. But, it is not fair. In this forum, I wish to observe inter-institutional courtesies. Therefore, I will not go into those examples. So, effectively, today Judges appoint Judges and there is a marginal role that the Executive has. The effort now is that we restore back what the spirit of the original Constitution was. And, in restoring back the spirit of the original Constitution, are we going to create Executive primacy? The answer is 'no'. Are we going to maintain, through this Amendment, the Judicial primacy, the answer is 'yes'.

(Contd. by 1w — PK)

PK-SC/1W/12.40

**SHRI ARUN JAITLEY (CONTD.):** So, the amendment has the following: Out of the six members of the collegium -- that was also the collegium which the earlier Law Minister, Mr. Sibal, had moved in this House. The composition of the collegium is identical. -- you have three seniormost judges of the Supreme Court. The Chief Justice of India will chair the collegium. There is no other group which is represented in this collegium which can match that strength. So, the predominant strength is of the judicial institution. The Executive is represented by only one person and that is the Law Minister. You have two eminent citizens. You have the Prime Minister, the Leader of the largest party in Opposition in the House of the People and the Chief Justice of India nominating these men of eminence. How these people will nominate and the manner in which such collegiums function has already been specified now in the CVC case by the Supreme Court. So, whatever are the guidelines laid down, there will be a procedure. So, in the nomination of these two eminent citizens also, the judicial institution has a vital role. So, the primacy is continuously maintained. But rather than merely an opinion being expressed and the opinion inevitably being overruled, you have some people who represent public interest, who will provide the necessary checks and balances

and you have the Law Minister who can represent the Government's or the President's viewpoint that this is why some person should be appointed and such and such person should not be appointed. Let us, Sir, be clear that no power by anyone is absolute power. It has to be exercised for good reason. The appointment of judges, so far, is a power which is exercised in a non-transparent manner. There are no reasons given. So, even if the President were to refer a case back, he may not know the reasons also, why his objections have been overruled. Now, a system in which the Executive, two eminent citizens and three judges are present, the judicial primacy is maintained; if the Executive wants, it can never appoint a person. It can only provide its valuable inputs about a person. That is how this power is going to be exercised.

Sir, this is the last point that I have to make. It is being said that the power exclusively belongs to the institution and they exercise it because it is in the larger interest of the independence of Judiciary. Independence of Judiciary is a part of the basic structure of the Constitution. It is true it is a part of the basic structure, it must be maintained. But Article 124 is also a part of the basic structure. Article 217 is also a part of the basic structure.

An elected Government is also a part of the basic structure. So, an elected Government at the Centre or in the State being completely kept outside the process, is that not an aberration of the basic structure. After all, democracy is the most basic of the basic structures of the Constitution. The Constitutional document is paramount. Therefore, the balancing act is that let this power be now exercised collectively, but in that collectivity, the primacy of the judicial institution be maintained so that we can have the best possible people who are appointed judges. This is the rationale behind this amendment. I think with the overwhelming support it has, it conveys a very powerful message that we are restoring back the spirit of Articles 124 and 217 while maintaining the primacy of the judicial institutions in the matter of appointments.

(Ends)

**SHRI P. RAJEEVE (KERALA):** Sir, we are enlightened by the views expressed by our eminent lawyer and the Finance Minister, Shri Arun Jaitley.

**MR. DEPUTY CHAIRMAN:** Nobody has any doubt about it.

**SHRI P. RAJEEVE:** I rise to support the Bill, Sir. This is the need of the day. My Party CPI (M) has a consistent stand on the issue of judicial reforms.

(Contd. by 1X/PB)

PB/1X/12.45

**SHRI P. RAJEEVE (CONTD.):** We stand for a comprehensive judicial reform. The reform should not be confined to appointments only. We want a Judicial Commission which deals not only with the appointments but also ensures the standard and accountability of the Judiciary. Instead of the proposed Judicial Appointments Commission, we want a Judicial Commission.

Sir, I was attentively hearing the remarks of Jaitleyji who was an eminent lawyer and who became one of the youngest Additional Solicitors General of the country at the age of 37. I am keenly eager to know what Jaitley's stand on accountability issue is. When we were discussing the Bill mooted by UPA-II, Jaitleyji spoke on that Bill. I would like to quote here a few things from his speech which he made at that time. I quote, "I would personally like to see a National Judicial Commission which has not merely the appointment powers but to which there is some element of accountability of the Judges itself." I again quote from Jaitley's speech. I quote, "Now should the National Judicial Commission only be an appointment body or should it also have some element of powers in relation to accountability or not? In my respectful

submission, it must have powers of accountability.” Sir, I want to know what your view on this issue is. This is your speech on the Bill mooted by the earlier Government. What is your view? This Commission has the powers only for appointments. I want to know why the learned Law Minister did not accept the respectful submission of an eminent lawyer of Jaitleyji’s standing and what the reasons behind this change of position are. It is true that you are now in the Government. Earlier, you were in the Opposition. At that time, you had one stand but now you have changed your stand or diluted your position on the accountability of the Judiciary. I think, Jaitleyji, at that time, had appreciated the consistent stand of CPI(M) and the Left. At that time, Jaitleyji mentioned that ‘we should have a comprehensive judicial appointments mechanism.’ The country should know the reasons for the change of position of BJP that the accountability should be incorporated in the legislation which deals with the National Judicial Appointments Commission. Sir, I could not find any reason for that. There is no change in the situation. The situation remains the same as it was when the Bill was mooted by the UPA-II.

Sir, Jaitleyji correctly mentioned that before the 1970 era, we had a very good mechanism. Then, after 70s, the pendulum

moved to one extreme in favour of the Executive. But after 1993, the pendulum went to the other extreme in favour of the Judiciary. We could not find a single word 'Collegium' in the Constitution. But that is the rule of the day, Sir. That is the failure of the Legislature. Actually, we have failed to address that issue. Ravi Shankar Prasadji correctly stated that it is the culmination of the exercise of 20 years. But we failed to make it a fruitful exercise. However, this is a good move. I support this move.

Now, as per one report — I don't know whether it is true or not — 70 per cent Judges of the Supreme Court is coming from 132 families only. A former Supreme Court Judge is regularly writing the blogs. He mentioned that this is 'uncle syndrome', which means uncles nominated their nephews. There is sometime 'father syndrome' but we could not see a 'mother syndrome' because the representation of women in the upper judiciary is very minimal. Therefore, we could not find 'mother syndrome'. But 'uncle syndrome' is there, i.e., 70 per cent of the Judges in the apex court is coming only from 132 families. It means that collegium member A supports the proposal mooted by B -- earlier, you had mentioned this in the House -- and there is an exercise, and this is the result.

Sir, we had waited several years to get a woman Judge in the apex court. Now, after the retirement of one CJI of our country, there is no Judge in the apex court who belongs to SC/ST community. I raised this issue several times by putting questions on it. But the answer from the Ministry always is that ‘we don’t have that statistics of SC & ST representation in the apex court.’ We could not find a single Judge belonging to SC/ST in the apex court of our country. How can we get natural justice if they have no representation in the society?

(Contd. by 1y/SKC)

SKC-ASC/1Y/12.50

**SHRI P. RAJEEVE (Contd.):** If it does not reflect the objective realities of the society, how can we get natural justice from the Apex Court? This issue needs to be addressed.

Sir, I now move on to the amendments. Out of the six members here, one should be a woman. There is a rotation mechanism in place, but out of these six members, there is no chance with the Chief Justice, but out of the judges, yes! But, otherwise, of these eminent personalities or even the Law Minister, one should be a woman.

**MR. DEPUTY CHAIRMAN:** You want the Law Minister to be a woman!

**SHRI P. RAJEEVE:** They can change it, if needed!  
...(Interruptions)... So, one of them should be a woman.

Sir, I represent the State of Kerala. I live in the city of Kochi, where one of the great Judges of the country, Justice V. R. Krishna lyer, lives. He would cross 100 years in November, 2015; he would be crossing a century in November, 2015! At this age, he is still arguing for reforms in the Judiciary. I quote: “There is no structure to hear the public in the process of selection, no principle is laid down, no investigation is made and a sort of anarchy has prevailed.”

**MR. DEPUTY CHAIRMAN:** That is what we are doing now! We are saying that!

**SHRI P. RAJEEVE:** Then, my question would be, is that sufficient to address these issues? We have a very good example, that of Britain. The UK system is considered as a model of participatory and transparent appointments. The Constitutional Reform Act (CRA) 2005, was recently amended by the Judicial Appointments Regulations, 2013. There are 15 members in the JAC and the Chairman is always a lay member, not a judicial member and not

the Chief Justice. It is always a lay member. **(Time-bell)** Sir, I would take two minutes.

The appointment of Judges is not a concern of the Judiciary, the Legislature or the Executive; it is the concern of the public. Then, this Commission should be more participatory and should have representatives of professionals, jurists and other sections...**(Time-bell)**.

**MR. DEPUTY CHAIRMAN:** Now conclude.

**SHRI P. RAJEEVE:** Sir, there is a distinction between a new Judge and a senior Judge. The Supreme Court Judge should be elected by the collegium of all Judges and there should be a representation of High Court Chief Justice, elected by the collegium, including all High Courts' Chief Justices....**(Time-bell)** Just one more minute, Sir.

There should be one representative from among them and one representative from the Bar Council. Then, Sir, we need to see whether it goes along with Article 14 of the Constitution. Article 14 of the Constitution is on equality before law. If it is there, there should be a notification, that is, notification for the vacancies. And, qualified lawyers must have the right to submit their application. Only then can you ensure transparency in the system.

Sir, my last point is, this should not be confined to the appointment of Judges in the Supreme Court and the High Court. It should be applicable to the tribunals as well, State as well as national tribunals.

With these words, I support this Bill, Sir. Thank you.

(Ends)

**MR. DEPUTY CHAIRMAN:** Now, Shri Kalpataru Das. You have four minutes. ...(Interruption)... Your time is four minutes. What can I do?

**SHRI KALPATARU DAS (ODISHA):** Mr. Deputy Chairman, Sir, you have given me only four minutes.

At the outset, I support the Bill moved by the hon. Law Minister, on my behalf and on behalf of the Biju Janata Dal. Sir, this is not the first time that this Bill has been brought to the Parliament. Even earlier, the UPA Government had brought in such a Bill, which was debated and referred to the Select Committee. And, it is on the basis of recommendations made by the Select Committee that these Bills have been prepared.

Sir, the hon. Law Minister, while introducing the Bill, it is amply clear, before preparing the Bill and its introduction, consulted eminent jurists of the country, almost all political parties

and only then brought this Constitution (Amendment) Bill to the House.

Sir, yesterday, it was unanimously passed in the Lok Sabha. It means that all the political parties want such an amendment to the Constitution and the appointment of a National Judicial Commission. Everybody wants it. The problem is, as raised yesterday, it may be *ultra vires* of the Constitution. There are apprehensions that if both the Bills are passed simultaneously, it may be declared *ultra vires* of the Constitution.

(CONTD. BY HK/1Z)

-SKC/HK-LT/1Z/12.55

**SHRI KALPATARU DAS (CONTD.):** Hon. Minister has clarified this yesterday. Today hon. Minister of Finance has clarified that in a more vivid manner. It is now the need of the hour; it is not the question of Judicial supremacy or Executive supremacy. There should be a balance between them. Till 1993, there was no need of amendment of the Constitution. But for the last twenty years, there have been efforts for the amendment of the Constitution to replace this Collegium system by a well-defined system by which Judges can be appointed. Yes, accountability should also be there. Here

also, the supremacy of the Judiciary is there because the Chief Justice of India will be the Chairman of the Commission, with two senior-most Judges as members. The Chief Justice of India will also be a member in the selection of two eminent jurists who will also be members in that Commission. This Commission will be constituted and for that there is a necessity of amending Article 124 by way of some insertion. With this, I support the Bill. I also request all the Members of the House to support it to bring a check and balance between the Judiciary and the Executive. The independence of the Judiciary will continue but there will be accountability. As Mr. P. Rajeeve was telling, all these Judges of the Supreme Court are from 132 families. This will not be repeated in future.

**MR. DEPUTY CHAIRMAN:** Now, Shri D. Raja. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** Sir, my name is first actually. ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** You are for the Bill and the Bill is coming up. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** I gave it earlier. ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** You gave it for the Bill.

**SHRI TIRUCHI SIVA:** Sir, the Amendment and the Bill are being discussed. I want to speak. ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** No, that is coming after this. This will be over before 2 o'clock. The Bill is coming. You gave the name for that. ...(Interruptions)... Mr. Siva, you gave the name late. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** Sir, I want to speak on both. ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** You gave the name late. Let me first dispose of the names given earlier, then I will call you. I have got the list of names which came late. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** I told them ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** I saw your letter; it is for the Bill. ...(Interruptions)... I cannot give chance to those who gave their names late leaving those who gave their names in time. That is my point. ...(Interruptions)... I have got the list of names which came in time. First, I will dispose of it, after that, according to time, I will accommodate everybody. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** Everybody is discussing the same thing. I also want ...(Interruptions)...

**MR. DEPUTY CHAIRMAN:** I cannot go back. ...(Interruptions)...

The Bill is coming. ...(Interruptions)...

**SHRI TIRUCHI SIVA:** Sir, I agree with you. But the problem is not with me. They just came and asked me if I wanted to speak on Judicial Bill. I said, 'Yes'. I have been waiting for long.

**MR. DEPUTY CHAIRMAN:** You are in the panel of Vice-Chairmen. I saw what you have written. You have written for the Bill. But if you want to speak on the Amendment, I will include you, but after disposing of the names in the list. I will go by the procedure. Now, Shri D. Raja, please speak.

(Followed by 2a/KSK)