

THE DEPUTY CHAIRMAN: That is exactly what I am trying to find out. We have two hours. We are starting the discussion at 4.45 P.M. If everybody finishes within his time, at 7.00 P.M. or 7.30 P.M there would be voting.

AN HON. MEMBER: Is it possible before 7.00 P.M.?

THE DEPUTY CHAIRMAN; I don't think that it would take place before 7.00. By 7.30 we should finish the voting.

THE MINISTER OF STATE IN THE MINISTRY OF LAW JUSTICE AND COMPANY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI O. RAJAGOPAL) : Madam, in the other House also, the discussion on the second Bill took a longer time.

THE DEPUTY CHAIRMAN: If it takes a longer time, you cannot let Rajya Sabha function till 9 o' clock without food. Yesterday, a lot of discrimination was done. Mr. Pramod Mahajan who is a Member of this House was not present even for voting. You please get him for his vote.

SHRI O. RAJAGOPAL: He was piloting the Bill, the other day, in the other House.

THE DEPUTY CHAIRMAN: Smt. Vasundhara Raje, please move the motion. Is this your first Constitutional Amendment Bill?

SHRIMATI VASUNDHARA RAJE: Yes, Madam.

THE DEPUTY CHAIRMAN: Congratulations.

THE CONSTITUTION (NINETIETH AMENDMENT) BELL, 2000

THE MINISTER OF STATE OF THE MINISTRY OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES, MINISTER OF STATE IN THE DEPARTMENT OF PERSONNEL AND TRAINING, DEPARTMENT OF PENSIONS AND PENSIONERS WELFARE OF THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS, AND MINISTER OF STATE OF DEPARTMENT OF ATOMIC ENERGY AND DEPARTMENT OF SPACE (SHRIMATI VASUNDHARA RAJE) : Madam Deputy Chairperson, I move:

'That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration'.

Madam, the Constitution (Ninetieth Amendment) Bill, 2000, as passed by the Lok Sabha proposes to incorporate clause (4B), under article 16 of the Constitution, with a view to enabling the States to provide a 50 per cent limit in reservation, which shall exclude the backlog vacancies. I may mention, Madam, that the proposed Amendment has become necessary as it has become difficult to fill the backlog vacancies consequent to the issue of an Office Memorandum, dated August 29th, 1997, in implementation of the Supreme Court Judgment in the Indira Sawhney Qgfp. The Bill seeks to enable the State to overcome the adverse effects of the aforesaid Office Memorandum, dated August 29, 1997, and to restore the position, as existed prior to that date. The exclusion of the backlog from 50 per cent ceiling on reserved vacancies to be filled in a year would help in accelerating recruitment to the posts for Scheduled Castes and Scheduled Tribes. It would also speed up the process of reaching the prescribed percentage for these categories in the cadres where there is a backlog. Madam, with these words, I commend the Bill for consideration of the House.

The question was proposed.

THE DEPUTY CHAIRMAN: Shri Raju Parmar.

श्री संचप्रिय गौतम (उत्तर प्रदेश) : मेरा व्यवस्था का प्रश्न है।

उपसभापति : अभी तो कुछ हुआ ही नहीं है, कुछ आया नहीं है। पहले से ही व्यवस्था का प्रश्न है?

श्री संचप्रिय गौतम : पहले ही से संबंधित है। महोदय, जिस स्थिति में यह विधेयक है न वह वैधानिक है और न संवैधानिक है और ऐसी स्थिति में इसको पारित नहीं किया जा सकता है। यहां बड़े बड़े विद्वान अधिवक्ता और न्यायमूर्ति बैठे हुए हैं और न हो सकता है कि मैं गलत होऊं। लेकिन, मान्यवर, मैं यह कहना चाहता हूं कि मंत्री महोदया ने यह विधेयक अनुसूचित जाति, जन-जातियों के आरक्षण के संबंध में प्रस्तुत किया है। जब यह लोकसभा में प्रस्तुत हुआ था तो उसके उद्देश्यों में विद्यमान था कि अनुसूचित जाति और जन-जातियों के बैक-लाग को पूरा करने के लिए यह है। लेकिन इस विधेयक में कहीं भी अनुसूचित जाति, जन-जाति शब्द सन्निहित नहीं हैं। महोदया, आप इसको पढ़ लीजिए। मैं विधेयक को पढ़कर सुनाता हूं:-

"Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class or vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year."

महोदया, मंत्री महोदया ने भी अपने वक्तव्य में अनुसूचित जाति और जन-जाति शब्द का उल्लेख किया है लेकिन इस विधेयक में यह कहीं नहीं है, किसी क्लाज में भी नहीं है। मैं यह इसलिए कह रहा हूँ कि 16.4 और 16.4(ए) के बाद यह संविधान में जोड़ा जा रहा है। उपसभापति महोदया, यह अगर बैकवर्ड क्लासेज के लिए होता अनुसूचित जाति, अनुसूचित जनजाति एंड अदर बैकवर्ड क्लासेज जिसमें सन्निहित है, जब भी यह औचित्यपूर्ण नहीं था। लेकिन बैकवर्ड क्लासेज की परिभाषा अनुसूचित जाति, अनुसूचित जनजाति से बिल्कुल भिन्न है। मैं आपके सामने तर्क, तथ्य और माननीय सर्वोच्च न्यायालय के निर्णय लाया हूँ जो इस बात को प्रामाणित करेंगे कि किस तरह से यह आवश्यक है। मैं दो बातें इस संदर्भ में और कहना चाहता हूँ।

THE DEPUTY CHAIRMAN: I am looking at the Constitution. It is mentioned in Article 16 (4A): "backward classes, the Scheduled Castes and the Scheduled Tribes." It is written here. Since the Law Minister is here, he can explain it. I think clause 2 of this Bill, which you are referring to, mentions about article 16, clause (4A) of the Constitution. (*Interruptions*) So, it refers to that clause of article 16, part III --Fundamental Rights.

SHRI SANGH PRIYA GAUTAM: Madam, the Statement of Objects will not find place in the clauses of the Bill. Therefore, it will not find place in the Constitution. The courts will interpret the Constitution; they will not get a copy of the Objects of the Bill. Therefore, I am citing another example.

महोदया, पिछली बार 1995 में यह 16(ए) (a) जब इसमें जोड़ा था, इसमें अनुसूचित जाति, अनुसूचित जनजाति शब्द का उल्लेख किया है।

उपसभापति : मैंने वही पढ़ा है, जो आप कह रहे हैं। नम्बर 16 में फंडामेंटल राइट्स में मैंने 16(4) पढ़ा और उस क्लाज में अनुसूचित जाति, अनुसूचित जनजाति के बारे में उल्लेख है। मैं समझती हूँ क्योंकि यहां लॉ मिनिस्टर साहब बैठे हैं, वे एक्सप्लेनेशन देंगे।

श्री संघ प्रिय गौतम : महोदया, मुझे कह लेने दीजिए, यह आवश्यक है।(व्यवधान).... सुन लीजिये, उल्लेख आवश्यक है। अभी हमने 23 दिसम्बर, 1999 को इसी प्रकार का संशोधन विधेयक प्रोन्नति में आरक्षण के लिए प्रस्तुत किया है जो समिति के सामने विचाराधीन है। उसमें भी स्टेटमेंट आफ ओब्जेक्ट्स एंड रीजंस में हमने अनुसूचित जाति, अनुसूचित जनजाति क हैं और मैं आपके सामने पढ़ रहा हूँ उसमें अनुसूचित जाति और अनुसूचित जनजाति का उल्लेख किया है। यही नहीं, महोदया, जैसे मैंने आपसे निवेदन किया, 1995 में यह 16 (4)(a) insert हुआ था, उस समय भी स्टेटमेंट आफ ओब्जेक्ट्स एंड रीजंस में अनुसूचित जाति, अनुसूचित जनजाति शब्द का उल्लेख था। इसलिए इस विधेयक में 16 (4)(a) अनुसूचित जाति, अनुसूचित जनजाति शब्द का उल्लेख हुआ है। मैं क्यों कह रहा हूँ? मैंने पहले भी कहा था कि इसी न्यायालय में इंदिरा साहनी बनाम भारत सरकार पर निर्णय दिया जिसके विरोध में आप यह संशोधन विधेयक लाए हैं। इसने होल्ड किया है कि Backward classes are different from Scheduled Castes हालांकि शैड्यूल्ड कास्ट और शैड्यूल्ड ट्राइब्स उसमें सन्निहित हैं जो बैकवर्ड क्लासेज को आरक्षण मिलता है वह अकेले 16(4) से नहीं मिलता है, वह 15(4) से मिलता है। आप 15(4) को जरा पढ़िये।

THE DEPUTY CHAIRMAN: Article 15(4) of the Constitution says: 'Nothing in this article or in clause (2) of article 2V shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of or for the Scheduled Castes and the Scheduled Tribes.'

श्री संघ प्रिय गौतम : इसमें स्पेशल उनको लिखा गया है और जो स्पेशल प्रोविजन हैं संविधान की धारा 330, 332, 335, 337 में, यह रिजर्वेशन 335 से संबंधित है। स्पेशल प्रोविजन में हैं और स्पेशल प्रोविजन सरकार बना सकती है और सुप्रीम कोर्ट के भी जजमेंट है जिसमें उसने होल्ड किया है कि 15(4) और 16 में दोनों ही आरक्षण अनुसूचित जाति, अनुसूचित जनजाति को है अगर यह शैड्यूल्ड कास्ट और शैड्यूल्ड ट्राइब्स शब्द का उल्लेख नहीं करने से यह समझा जाएगा कि हम बैकवर्ड क्लासेज को आरक्षण दे रहे हैं और इससे अंडर कंसीडरेशन जो सैटर है, वह केवल शैड्यूल्ड कास्ट्स

और शैड्यूल्ड ट्राइब्स का हैं। मैं कानून मंत्री जी से निवेदन करूंगा कि वे इसे प्रतिष्ठा का प्रश्न न बनावें और इस शब्द को अपने द्वारा मंत्री महोदय एक अमेंडमेंट लाकर, पेश करके इसको इन्सर्ट कर दें वरना इससे हमारा परपज हल नहीं होगा। आप जब बाद में मुझे थोड़ा समय देगी- मैं कोई कानून लाया हूँ, निर्णय लाया हूँ- उनका उल्लेख करूंगा। अब इस समय नहीं।

उपसभापति : आपने क्लाज (4ए) भी पढ़ी हैं। That also talks about the Scheduled Castes and the Scheduled Tribes.

SHRI SANGH PRIYA GAUTAM: Yes; it also talks about the Scheduled Castes and the Scheduled Tribes.

THE DEPUTY CHAIRMAN: I will call you after some time.

श्री टी.एन. चतुर्वेदी (उत्तर प्रदेश) : वे यही कह रहे हैं कि कानूनी स्पष्टता आ जाए।

DR. L. M. SINGHVI (Rajasthan): Madam Chairperson, I think the hon. Member has raised a very valid and legitimate issue. Article 16(4) and article 16(4A). are two distinct classes and categories. The Supreme Court has further interpreted them in the clearest possible terms. The amendment does not bear that distinction in mind, particularly, when it mentions both, clauses (4) and (4A). Kindly read clause (4). It reads as follows:

"Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, are not adequately represented in the services under the State."

This was intended to provide for a general class. That was not adequate. Therefore, clause (4A) was added and clause (4A) is specific about the Scheduled Castes and the Tribes. Clause (4A) mentions:

"Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State."

The Constitution, as it stands, clearly makes a distinction between the larger provision for all Backward Classes, of which the backward community may be one section, and the specific provision under clause (4A) for the Scheduled Castes and the Scheduled Tribes. Now, if you kindly read the Statement of Objects and Reasons, this will disappear after this amendment is made to the Constitution. It may be referred for interpretation, but it will not be binding. It mentions clearly that this is intended only for the Scheduled Castes and the Scheduled Tribes. However, that intention is not adequately expressed in clause (4B) which is sought to be added to article 16. Clause (4B) reads as follows:

"Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4 A)."

That means it includes both. The intention, as indicated to us, in the Statement of Objects and Reasons is one and the intention that is expressed in clause (4B) is far more exclusive than the restricted intention which is intended to benefit only the Scheduled Castes and the Scheduled Tribes. What is more, the statements that have come do not tell us as to how many years of reservations are sought to be carried forward and for how long they will be carried forward. What is the quantum of vacancies which remain unfilled in the backlog? When I put a question, I got no answer in specific terms. I think the House is entitled to know this. The Constitutional amendment has to be taken more seriously than it is being done. Thank you.

SHRI R.S. GAVAI (Maharashtra): Madam Chairperson, the objections raised by the hon. Member, Shri Sangh Priya Gautam, are entirely correct. Another hon. Member tried to support the Bill quoting that the intention of clause (4A) is being incorporated in clause (2). That is true.

Madam Deputy Chairperson, it is a parliamentary convention. Not only that; it is incumbent that whatever wordings are incorporated in the Statement of Objects and Reasons, ought to appear in the original Bill. Of course, there is a clear-cut distinction between clause 16(4) and clause 16(4A). Clause 16(4A) is regarding reservation in promotion. In that

respect, this House had passed the Bill in 1993. Now the objection which has been raised by hon. Member, Shri Gautam, is about a lacuna in the Bill. I do understand the very pious intention of the Government to pass the Bill. But the wording does not reflect it. The hon. Law Minister is a good friend of mine. As you know, there are a lot of deficiencies in the Bill. If at all the hon. Minister does not want to make it a prestige issue, these difficulties can be overcome. I would definitely take part when there is clause by

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clause discussion on the Bill. I have to suggest some amendments to this Bill, to overcome this difficulty. Keeping in view the pious intention of the Government, we also want to support the Bill. I will clarify it by suggesting some amendments.

THE DEPUTY CHAIRMAN Let us not go for amendments at this point of time.

SHRI RS. GAVAI : No; no, Madam, I know that; at the appropriate time, when the clause- by- clause discussion is taken up, I will move my amendments. I know the procedure. But I want to stress it so that the various pious intentions of the Government are not spoiled. Therefore, this lacuna can be overcome by the amendment which I will be suggesting at the time when the clause- by- clause discussion is taken up. Otherwise, it is a great lacuna that whatever appears in the Statement of Objects and Reasons, does not appear in the main Bill. It is up to the Government to set it right. Of course, we appreciate the very good intentions of the Government. But because of the bad wording and that too a word which can lead to a lot of interpretation, your pious intentions are being spoiled. That is what I want to say. (*Interruptions*)

THE DEPUTY CHAIRMAN: I will call you at that time. Now, Mr. Margabandu. He is the last speaker. Then the hon. Minister will reply.

SHRI R. MARGABANDU (Tamil Nadu): Madam, recently, the Supreme Court has struck down article 16(4A). But as per this amendment, "The Government, after considering various representations, reviewed the position and has decided to make amendment in the Constitution so that the unfilled vacancies of a year, which are reserved for being filled up in that year, in accordance with any provision for reservation made under clause

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(4) or clause (4A) of article 16 of the Constitution, shall be considered as a separate class of vacancies to be filled up." I would like to know, when it has been struck down, why this clause has been reiterated in this section?(7n/e/rw/j/iow.s.)

SHRI VAYALAR RAVI (Kerala). How can it be struck down?

SHRI R. MARGABANDU (Tamil Nadu): In the Supreme Court.

SHRI PRANAB MUKHERJEE (West Bengal) : How can a constitutional article be struck down?

THE DEPUTY CHAIRMAN: No; no. It is not struck down. They might have given some different interpretation. The Supreme Court cannot strike down a constitutional amendment.

SHRI R. MARGABANDU: This article has not been accepted by the Supreme Court. I put it in this way. But as per the statement of the Law Minister in the other court - that since this Article 16(4a) has not been accepted by the Supreme Court, how are we implementing this? 'We are implementing that provision, i.e. article 16(4)(a).' That is the reply given by the Minister.

THE DEPUTY CHAIRMAN. The Law Minister should answer it, without creating any more confusion.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI RAM JETHMALANI): But for the fact that some very learned gentlemen have joined issue with us, I think the matter as so childishly simple that I would not have normally bothered to reply. It is childishly simple. Let us look at(*Interruptions*).

SHRI R. MARGABANDU: Madam, I have referred to the reply of the Minister.

THE DEPUTY CHAIRMAN: Mr. Margabandu, let him answer. (*Interruptions*).

SHRI R. MARGABANDU: Madam, he is saying, "Childishly". What is this? (*Interruptions*). Is this the way they are treating a Member of Parliament? (*Interruptions*)

SHRI N. THALAVAI SUNDARAM (Tamil Nadu): Madam, he should withdraw his words.

SHRI RAM JETHMALANI: A'l that I wanted to say was that he

raised a very simple matter which does not admit of much controversy. (*Interruptions*).

SHRI R. MARGABANDU: Madam, I would like to know whether a Member of Parliament could be treated like this. (*Interruptions*).

THE DEPUTY CHAIRMAN: Hon. Law Minister, you are a legal luminary, not all of us. (*Interruptions*).

DR. L.M. SINGHVI: Will the Minister give a childishly simple answer? The House is very serious. He must have good manners to understand that a Constitutional objection was raised in good faith. Mr. Minister, answer it with^ courtesy and with respect that you owe to the House. He should not take upon himself the wisdom and learning that does not belong to him.

SHRI RAM JETHMALANI: Madam, I will leave everything to the judgement of the House after a five minutes' argument.

THE DEPUTY CHAIRMAN: It is not the judgement, Mr. Law Minister. In this House, if I ask you from the Chair, "You please explain; even if it is the most childish and foolish thing asked in this House, which is never so, you will have to answer it." It would be much better if the queries of the Members....

SHRI RAM JETHMALANI: I take that advice. I am sorry.

THE DEPUTY CHAIRMAN: That is much better.

SHRI RAM JETHMALANI: Let us see how simple it is. Kindly turn to article 16, clause (1). If clause (1) stood by itself, no reservation would be possible because, basically, every reservation is based on a caste. It makes some provision in favour of some caste and therefore, it is discriminatory against other castes. If article 16 (1) stood, no reservation would be possible. Now, forget clause (2). It is not important for our present purpose. We come to clause (3). It says, "Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office...." It permits certain discrimination to be made, but on those specified matters. Again clause (3) is also not relevant. We come to clause (4). It says, "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of

citizens which, in the opinion of the State, is not adequately represented in the services under the State." Clause (4) is important which permits reservation to be made. Now there are two views about reservation. The first view is that this is an exceptional situation that what article 16(1) prohibits, article 16 (4) permits. Therefore, it is an exception. The other view which has found favour with some other judges is that it is not really an exception at all, but because in article 16(1), if you are making a discrimination amongst unequals who, for historical reasons, are placed in a situation of inequality already, then different unequal provisions for unequals is a form of equality. The other view that has been taken by the court is that reservations are not an exception but the reservation article is declaratory of the general law under article 14 because article 14 prevents discrimination amongst equals, but where there are unequals, it is not discriminatory.

Now, clause 4 says: "Nothing in this article shall prevent the State from making any provision for reservation in matters of appointment..." We are still not concerned with it. Promotion raises another kind of controversy which is still *subjudice*, and, today, we are not dealing with that. Now this clause 4 which permitted provision for reservation, and the Supreme Court, proceeding upon the view that reservations are in the form of an exception to the general rule, said that you shall not be able to create more than 50 per cent reservation because every exception can't exceed the general rule. Now this is the interpretation which was taken in the case decided in 1963. Thereafter, in 1976, there was another larger Bench which sat and it said, "This is wrong. You can go up to 100 per cent if you like." At least three judges expressly took that view. But then when we argued the Indra Sawhney case, they again went back to the old 1963 view that reservations can't exceed 50 per cent. Now what we are trying to do by this amendment is not that we are trying to set aside the rule of 50 per cent, but we are trying to get rid of an auxiliary consequence that has arisen - the auxiliary consequence is that if, today, we have some number of vacancies, reserved vacancies, and we are not able to fill them up in this year, they remain unfilled; then, in the next year, combine them with the unfilled vacancies of that year and it may still not exceed 50 per cent. Go to the third year. And you find that X+Y+Z goes beyond 50 per cent. In this case, the Supreme Court says, you can't do. This is the latest pronouncement of 1993 in the Indra Sawhney case. Now how has this arisen? It has arisen by virtue of an

interpretation of clause 4 which permits reservations to be made. Therefore, the Supreme Court says, — in clause 4, you have got reservation powers — you can make reservation, but (a) these reservations shall not exceed 50 per cent and (b) if you have the arrears and backlog, the total cannot exceed 50 per cent. Now all that this amendment says is that nothing in this article shall prevent you from treating backlog vacancies as the number which will count for comparing the 50 per cent restriction. The 50 per cent restriction is still under challenge. We are committed, the Government is committed, even to override it. But we have to wait till the Supreme Court delivers the further judgement because the Tamil Nadu Government, both in 1989 and 1992, had really gone beyond 50 per cent. The Madras High Court had struck this down, and the matter is now pending in the Supreme Court. So, we are not dealing with that. We will assume for the time being that 50 per cent is the total that you can accomplish. Now all that this amendment says is that nothing which has been said about the interpretation of reservation concept will compel you to consider arrears, backlogs, as a part of that 50 per cent. The two are distinct. Therefore, it is a negative provision saying that for the purpose of 50 per cent, the backlog shall not be counted. It has got to be in this form. And you don't have to talk of Scheduled Castes, Scheduled Tribes and Backward Classes because these are already talked about in clause 4. Clause 4, which permits reservations to be made, itself talks of Backward Classes. Now, clause 4 (b) explains that you can stand exceed 50 per cent by the backlog quantity.

There, we don't have to talk about the Scheduled Castes and the Scheduled Tribes again because we are now trying to say that nothing in that rule will compel you to count the backlog. That is all. But, so far as this amendment is concerned, the backlog exists only for Scheduled Castes and Scheduled Tribes. So far as the OBCs are concerned, although, theoretically, it could exist for OBCs also, as a matter of fact, the OBC vacancies are filled up; the backlog exists only in the case of the Scheduled Castes and the Scheduled Tribes. Now, kindly see the Statement of Objects and Reasons. What does it say?

SHRI SANGH PRIYA GAUTAM: Madam I want to say that the hon. Minister is not clear in his mind. Let me ... the statement .

SHRI RAM JETHMALANI: But I have are yet finished.

श्री संघ प्रिय गौतम : आप बता दीजिए जवाब दे दीजिए।

29, 1997, the vacancies reserved for Scheduled Castes and Scheduled Tribes which could not be filled up by direct recruitment on account of non-availability of candidates belonging to the SCs and STs, were treated as backlog मेरा मतलब यह नहीं है। आप इस बिल को शैड्यूलड कास्ट्स और शैड्यूलड ट्राईब्स के लिए ला रहे हैं। वह शब्द इसमें आना चाहिए। वह शब्द इसमें नहीं है। मैं इसी जजमेंट को पढ़ रहा हूँ। मैंने इसलिए कहा कि Hon. Minister is not clear in his mind (interruptions) आप अभी जवाब दे दीजिए। मैं आपके सामने यह पढ़ रहा हूँ- 'The SC/ST being mentioned' यह मंडल कमीशन जजमेंट, जहां से ला रहे हैं "The SC/ST being mentioned", "together with Backward Classes in Article 54, is evident that by the expression Backward Classes', the clause refers to classes of persons other than the members of the SCs and-STs. At the same time, the fact that the Scheduled Castes can be enumerated by a Presidential order and the fact that for members of the Schedule Castes and the Scheduled Tribes, there is a provision for reservation in the legislature - Article 330 and 332 - why is there no such reservation for the members of the Backward Classes? It shows that the problem of Backward Classes, outside अलग किया है उनको। अब ये जो (4) को जोड़ रहे हैं, या तो फिर यह शब्द कहिए कि शैड्यूलड कास्ट्स और शैड्यूलड ट्राईब्स और बैकवर्ड क्लासेज के लिए भी हम कर रहे हैं। या तो यह क्लियर कीजिए। अगर आप केवल शैड्यूलड कास्ट्स की बात कर रहे हैं तो that should find place in the (Interruptions)

SHRI R. MARGABANDU: Madam, the Minister can answer my question also. My specific point is this. So far as reservation in the matter of promotion for Scheduled Castes is concerned, it has not been accepted (Interruptions)

उपसभापति : मंत्री जी आप बैठ जाइए। वह सवाल कर लें तो फिर आप जवाब दे दीजिएगा।

SHRI R. MARGABANDU: The other day, the Minister replied to it in the Lok Sabha. I will read out his reply. He said, "Even though the Supreme CoUrt has not accepted this proposition, this Government is continuing this reservation in promotions for the Harijans". This is the answer given by the Minister in the Lok Sabha. That is one aspect. But that aspect has not been touched by the Minister. The second aspect is about the ceiling of 50%. Several States have enacted legislations regarding reservation for the OBCs and the BCs*

* Expunged as ordered by the Chair.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Madam, I want to say something. *(Interruptions)*

THE DEPUTY CHAIRMAN: No. I am not allowing. *(Interruptions)*

SHRI S. VIDUTHALAI VIRUMBI: Madam,...

THE DEPUTY CHAIRMAN: Please sit down. *(Interruptions)* Please sit down. *(Interruptions)* One minute.

SHRI S. VIDUTHALAI VIRUMBI: I am on a point of order, Madam.

THE DEPUTY CHAIRMAN: No point of order. Please sit down. *(Interruptions)* Please take, your seats. *(Interruptions)* I said, sit down. *(Interruptions)* If you sit down, then I will speak. *(Interruptions)* Mr. Margabandu, just sit down. *(Interruptions)* One minute. *(Interruptions)*

SHRI R. MARGABANDU: *

THE DEPUTY CHAIRMAN: Just keep quiet. *(Interruptions)* Please sit down. This is a serious matter. The matter is reservation for SC/STs. This is not a Tamil Nadu matter. If you have to fight, please go out and fight, but not in the House. I will not permit this. *(Interruptions)*

SHRI S. VIDUTHALAI VIRUMBI: Madam, unnecessarily he is saying,.. *(Interruptions)* You have allowed him to give a wrong information. I have a G.O. *(Interruptions)*

SHRI M. VENKAIAH NAIDU (Karnataka): The entire confusion can be put to an end. Is it the intention of the Government just to clear the backlog of SC/STs, or, they are going to cover the backlog among the Backward Classes also? According to my understanding, the intention is to cover the backlog of SC/STs. That is the purpose of this amendment. If the Government is thinking otherwise, ... *(Interruptions)* I am not trying to join issue with anybody because it is a very important issue. The entire country is naturally concerned. My only point is, according to my understanding, this amendment has come to take care of the backlog of SC/STs because if you cover the backlog of others, as the Minister rightly said, it will cross 50%. That being the case, it will violate the Supreme Court ruling. That is why we want to protect this by bringing this amendment. Is it so, or, it is going to cover the Backward Classes also? The Minister of Personnel, who has moved this Bill should be clear about this. If they can enlighten the House

* Expunged as ordered by the Chair.

[16 MAY, 2000]

RAJYA SABHA

on this, then, I think, the matter can be put to an end. *(Interruptions)*

THE DEPUTY CHAIRMAN: Mr. Pranab Mukherjee wants to say something. *(Interruptions)*

SHRI S. VIDUTHALAI VIRUMBI: Please allow me for a minute. *(Interruptions)*

THE DEPUTY CHAIRMAN: Without my permission, please, do not get up even for quarter of a minute. Mr. Virumbi, please sit down. I have always allowed you. *(Interruptions)* It is very unfortunate that your fight of Tamil Nadu politics... *(Interruptions)* I am not allowing it. *(Interruptions)* Listen to me, Mr. Virumbi. Please sit down. *(Interruptions)*

SHRI S. VIDUTHALAI VIRUMBI: Please protect my rights. *(Interruptions)*

THE DEPUTY CHAIRMAN. Everybody protects your right. We " are not discussing the Tamil Nadu issues. Just listen to me. *(Interruptions)* Please cool down. Have peace. When we discuss the Bill, when your name is there, you correct if any wrong thing is made. I will put on record what points you have made. But now listen to me. This is not the Tamil Nadu fight. This is a matter of a Bill, whether it is to be taken into consideration or not. That is the objection raised. Let me first settle that issue. *(Interruptions)*

SHRI S. VIDUTHALAI VIRUMBI: You must allow me for a minute. *(Interruptions)*

THE DEPUTY CHAIRMAN: You are a very senior Member. You are a senior Member, do not behave like this. I did not allow him. He got up. I will strike down whatever Mr. Margabandu has said. Sit down now. Everything is struck off. It is over now. He should have said things related to the Bill. He should not have brought the Tamil Nadu politics. It is not going on record. *(Interruptions)* One person can't bully the House. One person can't hold the House to ransom. *(Interruptions)*

SHRI PRANAB MUKHERJEE: Madam Deputy Chairperson, as I understand the interpretation of the Bill... *(Interruptions)* Other Members also have to speak, Madam. *(Interruptions)*

THE DEPUTY CHAIRMAN: Others too have a right to speak, Mr. Virumbi. Mr. Virumbi, I did not allow him. *(Interruptions)* Please sit down

and do not irritate me. It is the duty of the ruling party Members to stop people. This is not the way. Please sit down. (*Interruptions*) I adjourn the House for half-an-hour.

The House then adjourned at twenty minutes past five of the clock

The House reassembled at fifty-eight minutes past five of the clock,

THE DEPUTY CHAIRMAN in the' Chair

THE DEPUTY CHAIRMAN: One thing I wanted to announce before I start any discussion. First of all - before I call the Secretary-General to read out the message from Lok Sabha - I would request everybody to please sit in their own seats because it creates a confusion and we do not know who is speaking from where. So, the Members should sit in their own seats because we are going to have voting a little later. So, there should not be any confusion in the House.

MESSAGES FROM LOK SABHA

- (1) The Information Technology Bill, 2000.
- (2) The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Bill, 2000.
- (3) The Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 2000.

SECRETARY-GENERAL: Madam, I have to report to the House the following messages received from the Lok Sabha, signed by the Secretary-General of the Lok Sabha:-

I

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Information Technology Bill, 2000, as passed by Lok Sabha at its sitting held on the 16th may, 2000."

II

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Leaders and Chief Whips of Recognised Parties and