

DR. BIPLAB DASGUPTA : Everybody knows it.

MR. CHAIRMAN : What everybody? Nobody knows. (Interruptions) No, no. You can't do that. (Interruptions) Your time is over now. You have finished. Now I take up the next Special Mention.

Role of CBI in cases against Shri Laloo Prasad Yadav and Shrimati Rabri Devi

श्री रामदेव भंडारी (बिहार) : माननीय सभापति जी, अभी नरेन्द्र मोहन जी सी.बी.आई. और उसकी वर्किंग के बारे में चर्चा कर रहे थे। मेरा स्पेशल मेंशन भी इसी से संबंधित है कि किस प्रकार एक इंडीपेंडेंट एजेंसी सी.बी.आई. को राजनीतिक हथियार के रूप में सैन्ट्रल गवर्नमेंट मिसयूज कर रही है। महोदय, सी.बी.आई. ने राष्ट्रीय जनता दल के अध्यक्ष श्री लालू प्रसाद यादव जी और बिहार की मुख्य मंत्री श्रीमती राबड़ी देवी के खिलाफ चार्जशीट दायर किया है। महोदय, मूल रूप से यह विषय, यह मामला सीबीआई से संबंधित नहीं है। डिसप्रोपोर्शनेट एसेट्स इन्कम टैक्स डिपार्टमेंट का मामला है। यह विषय उससे संबंधित है। राष्ट्रीय अध्यक्ष श्री लालू प्रसाद जी और श्रीमती राबड़ी देवी जी ने इसके खिलाफ हाइयर कोर्ट में अपील दायर की है और यह अपील पेंडिंग है। इस बीच महोदय, सीबीआई ने 7 व्यक्तियों के खिलाफ मुकदमा दायर किया, एफआईआर दायर किया। वे व्यक्ति हैं, डॉ. आर.के. राणा जिन पर 7.5 करोड़ से ज्यादा की डिसप्रोपोर्शनेट एसेट्स के लिए एफआईआर 24.12.96 को दायर हुई, दूसरे डॉ. ओ.पी. दिवाकर हैं जिनके खिलाफ एक करोड़ 31 लाख से ज्यादा की डी.ए. के लिए 22.4.97 को एफआईआर दायर हुई, डा. शेष मुणि राम के खिलाफ 94 लाख 19 हजार से ज्यादा की एसेट्स के लिए 21.4.98 को एफआईआर दायर हुई, डॉ. कृष्ण मोहन प्रदाद के खिलाफ 6 करोड़ 31 लाख 93 हजार से ज्यादा की एसेट्स के लिए 22.5.98 को एफआईआर दर्ज हुई, डॉ. एस.बी. सिन्हा के खिलाफ एक करोड़ 98 लाख 72 हजार से ज्यादा की एसेट्स के लिए 22.5.98 को एफआईआर दायर हुई, श्री गौरी शंकर प्रसाद के खिलाफ एक करोड़ 72 लाख के लिए 9.7.98 को एफआईआर दायर हुई। सब से अंत में लालू प्रसाद यादव जी के खिलाफ दिनांक 19.8.98 को 42 लाख 52 हजार 193 रुपये की डिसप्रोपोर्शनेट एसेट के संबंध में सी.बी.आई. ने मुकदमा दायर किया। महोदय, पहले के जिन 6 मामलों की चर्चा मैंने की है वे सभी बहुत पहले दर्ज हुए और सीबीआई ने उनके संबंध में किसी तरह की कार्यवाही नहीं की है, लेकिन 7वां मामला, जिसकी एमाउंट सब से कम है और जो सब से आखिर में दायर हुआ है, उन मुकदमों में सीबीआई ने चार्जशीट दिया है।

महोदय, मैं एक बात और कहना चाहता हूँ। शुरू में जब यह मुकदमा दायर किया गया था उस समय सिर्फ लालू प्रसाद यादव जी का नाम था और जब चार्जशीट दायर की गई

तो लालू प्रसाद जी के साथ श्रीमती राबड़ी देवी जी का नाम आया। महोदय, केन्द्रीय सरकार सी.बी.आई. को एक राजनीतिक हथियार के रूप में यूज कर रही है और बिहार में जो राबड़ी देवी जी की सरकार है उसको डिसलॉज करने के लिए, उसको अस्थिर करने के लिए शुरू से ही सेंट्रल गवर्नमेंट के इशारे पर सी.बी.आई. जैसी इंडीपेंडेंट एजेंसी अपनी मर्यादा खत्म कर रही है। बिहार में विधान सभा चुनाव हुए। इन्हें बड़ी उम्मीद थी कि ये सरकार बनायेंगे। ...**(व्यवधान)**... इसी से संबंधित है, नायडु साहब, जरा सुन तो लीजिए, बड़ी उम्मीद थी कि बिहार में इनकी सरकार बनेगी। प्रेस वाले, टेलीविज़न वाले कहते थे कि 60 से ज्यादा लालू प्रसाद जी को एमएलए नहीं मिलने जा रहे हैं। एग्जिट पोल ने भी कुछ ऐसा ही कहा, मगर जब रिज़ल्ट आया तो बिहार की गरीब जनता ने सब से बड़ी पार्टी के रूप में राष्ट्रीय जनता दल को वोट दिया और राष्ट्रीय जनता दल सब से बड़ी पार्टी के रूप में उभर कर आया। महोदय, इतना ही नहीं, अभी सीबीआई की बात कर रहे थे, और भी मर्यादा के रूप में गवर्नर साहब ने शपथ ग्रहण कराई और वह विधान सभा में विश्वास मत प्राप्त नहीं कर सके, यह सेंट्रल गवर्नमेंट की साजिश का एक अच्छा नमूना है। महोदय, सेंट्रल गवर्नमेंट पॉलिटिकली मोटिवेटेड होकर लालू प्रसाद यादव और राबड़ी देवी के खिलाफ कार्यवाही कर रही है और बिहार की सरकार को डिसलॉज करना चाहती है। मैं इस की भर्त्सना करता हूँ। महोदय, मैं यहां 16 अप्रैल के एशियन एज में छपी पढ़ना चाहता हूँ : The CBI bypassed P.M. in Laloo Case. It says, "The CBI bypassed the Union Minister for Personnel, who happens to be the Prime Minister, Atal Bihari Vajpayee, while acting against Mr. Laloo Prasad Yadav and Mrs. Rabri Devi. The CBI took its orders from the Home Minister, Mr. L.K. Advani, without reference to the Prime Minister."

SHRI M. VENKAIAH NAIDU (Kamatjika): Sir, this is an allegation ...**(Interruptions)**... Today, the CBI has denied this ...**(Interruptions)**... It has appeared in today's newspaper ...**(Interruptions)**... Are you taking the responsibility? ...**(Interruptions)**... If you take the responsibility, I have no objection ...**(Interruptions)**... Are you taking the responsibility? ...**(^/wrrrrMp/zora^...** Umpteen times press cuttings are brought in the House ...**(Interruptions)**... Is he taking the responsibility? ...**(Interruptions)**...

श्री रामदेव भंडारी : यह एशियन एज में छपा है। महोदय, इसी में...**(व्यवधान)**...

SHRI M. VENKAIAH NAIDU: Are you taking the responsibility? ... **(Interruptions)**...

श्री रामदेव भंडारी : यह एशियन एज में छपा है। मैं अपनी बात नहीं कर रहा हूँ।
...(व्यवधान)...

SHRI M. VENKAIAH NAIDU: You take the responsibility
...(Interruptions)...

SHRI MD. SALIM (West Bengal) : This is concerning the Prime Minister, who happens to be the Minister for Personnel ...(Interruptions)... How can a private Member deny it? ...(Interruptions)... How can he speak on behalf of the Minister? ...(Interruptions)... Let the Government deny th is... (Interruptions)...

SHRI M. VENKAIAH NAIDU: Sir, allegations are being made against the Prime Minister... (Interruptions)... The matter is pending before the judiciary (Interruptions).... They are attributing motives ... (Interruptions)...

श्री रामदेव भंडारी : यह एशियन एज में छपा है और आप ने उस को अभी तक कॉटेडिक्ट नहीं किया है। ...(व्यवधान)...

SHRI MD. SALIM: The Leader of the House is here. He can make a statement. No problem ... (Interruptions)... How can a private Member contradict this? ... (Interruptions)... He is not the Government ... (Interruptions)... He is not conducting the affairs of the Government... (7</ern<pr/om/.. Let the Leader of the House respond ... (Interruptions)...

SHRI M. VENKAIAH NAIDU: Is he taking the responsibility? ... (Interruptions)... Why are you making wild allegations? ... (Interruptions)... Sir, Bihar RJD Mahila President made charges here... (Interruptions)... The Bihar RJD Mahila President has made allegations against the RJD President ... (Interruptions)...

DR. RAMENDRA KUMAR YADAV RAVI (Bihar): The CBI has attached such property and such income of which a return has already been filed before the Income Tax authorities... (7<re/-n//7//ons/..

SHRI M. VENKAIAH NAIDU: Are we discussing about the case? ... (Interruptions)...

श्री रामदेव भंडारी : नायडू साहब, मैं अपनी बात नहीं कह रहा हूँ, यह अखबार में छपा है। ...(व्यवधान)... सर, इसी अखबार में 17 तारीख को यह भी छपा है... (व्यवधान)...

SHRI M. VENKAIAH NAIDU: I am not coming in your way. I am only requesting you to please authenticate and take the responsibility of what you have said...(Interruptions)...^o prohiem...(Interruptions)..

श्री रामदेव भंडारी : महोदय, एक तरफ राबड़ी देवी जी मुख्य मंत्री पद की शपथ ग्रहण कर रही थीं और दूसरी तरफ गवर्नर साहब राबड़ी राय देवी पर केस चलाने की सेंक्शन दे रहे थे...(व्यवधान)...

श्री एम. वेंकैया नायडु : महोदय, यह गवर्नर पर भी आरोप लगा रहे हैं। हाउस में गवर्नर के बारे में यह कहना, होम मिनिस्टर के बारे में कहना क्या उचित है? ...(व्यवधान)...

श्री रामदेव भंडारी : सर, इस तरह यह सरकार संविधान की मर्यादाओं का हनन कर रही है, लोकतांत्रिक व्यवस्थाओं को तोड़ रही है और लालू प्रसाद जी, राबड़ी देवी और बिहार सरकार को गिराने के लिए सभी अनैतिक तरीकों को अख्तियार कर रही है

श्री सभापति : बस हो गया।

श्री रामदेव भंडारी : इसलिए मैं आप के माध्यम से सरकार से कहना चाहता हूँ कि आप राबड़ी देवी जी से माफी मांगिए। ...(व्यवधान)... सी.बी.आई. के द्वारा जो उन्हें चार्जशीट दी गयी है, वह तुरंत वापिस की जाए। महोदय, वह केस इनकम टैक्स डिपार्टमेंट में चल रहा है और हम ने इनकम टैक्स डिपार्टमेंट में रिटर्न दे दिया है व अपील की है। इसलिए राबड़ी देवी जी और लालू प्रसाद यादव जी के खिलाफ जो चार्जशीट फाइल हुई है, वह वापिस की जानी चाहिए। धन्यवाद।

श्री सभापति : बस हो गया। ...(व्यवधान)...

SHRI T.N. CHATURVEDI (Uttar Pradesh) : Sir, with your permission, I want to say that...(Interruptions)

MR. CHAIRMAN: Please sit down. No, nothing. I have allowed Mr. Chaturvedi only. (Interruptions)

SHRI T.N. CHATURVEDI: Sir, in the *Asian Age* of today it has been published, "Elders to debate CBI case against Laloo, Rabri. No orders by Advani in Laloo's case to the CBI". Denial is in today's *Asian Age*. ... (Interruptions)... Just for the rec ord. ... (Interruptions)...

SHRI NILOTPAL BASU(We«t Bengal): Mr. Chairman, Sir, it is a very sad state of affairs that we are discussing this issue in the Council of States and statements are being made by;Members, which imppcitty say that the CBI or, for that matter, any other agency of the Central

Government is inherently and eminently more eligible than the State Government or the State Government agencies in protecting the national interest. I think ...*(Interruptions)*

MR. CHAIRMAN: You are talking on...*(Interruptions)*

SHRI NILOTPAL BASU: Sir, I had given a notice for the ...
(Interruptions)

MR. CHAIRMAN: Are you not speaking on the issue raised by Shri Ramdeo Bhandari?

SHRI NILOTPAL BASU: Sir, I am coming to that. The manner in which the CBI has acted on this whole issue, and the way in which some Members are trying to defend the CBI's action, is very unfortunate. What had been published in the *Asian Age* on consecutive days, should have been disclaimed by the Government because it concerns the credibility of a very vital central agency like the CBI. If there is an iota of truth in it ...
(Interruptions)...

MR. CHAIRMAN: No, please sit down. ...*(Interruptions)*...

श्री रामदास अग्रवाल (राजस्थान) : उसका महत्व क्या है? अखबार में जो कुछ छपा, क्या उसको सही मान लिया जाएगा ...*(व्यवधान)*...

श्री राजू परमार (गुजरात) : आप क्या कर रहे हैं अभी ...*(व्यवधान)*...

श्री टी.एन. चतुर्वेदी : कल जो छपा है, उसे मान रहे हैं, आज जो छपा है, उसे आप क्यों मानने के लिए तैयार नहीं हैं ?...*(व्यवधान)*...

SHRI NILOTPAL BASU: Sir, if an iota of truth is there in the reports, published in the *Asian Age*, it is a very sad day for Indian democracy and for the federal structure of this country. Now, the point is, somebody may dismiss it as a very trivial report in the press. But I think it calls for a proper clarification by the Government of India. Now, the House is in sessbn. Till yesterday, I would have accepted all these arguments by the Members of the Treasury Benches, had there been a clarification on the issue in the House by the appropriate authorities in the Government. But we have not heard anything. So, I think we are fully entitled to know as Members of this august House, as to how the CBI has conducted its inquiry. Sir, we can raise questions on this. Now, Sir, the Leader of the House is here. He is silent. I do not know the reason behind this. It has

fallen on the shoulders of Private Members, like we are seeing here, to defend the Government on this issue, where the Government's position seems to be indefensible. Now, Mr. Hiandari has read out a complete list and the schedule of the filing of the FIRs. We would like to know from the Government whether the schedule of the filing of the FIRs and the amounts involved are right or wrong. If the list is correct, then what is the reason for ignoring the charges and the amounts involved in respect of the six other accused... *(Interruptions)*...

SHRI T.N. CHATURVEDI : Sir, where he should just associate himself, he is talking about allegations ... *(Interruptions)*...

SHRI NARENDRA MOHAN (Uttar Pradesh) : Sir, the case is in the court.... *(Interruptions)*...

SHRI NILOTPAL BASU : I am speaking with utmost sense of decency and dignity of this House. ...*(Interruptions)*... I would like to know from the Government ... *(Interruptions)*... Under the guidelines framed by the Department of Personnel and Training, when such cases are investigated by the CBI, under the precise direction of the court, whether a notification under Section 6 is required or not. I would like to know whether that file should be processed by the Department of Personnel and Training or not. I would also like to know whether the Prime Minister, as Cabinet Minister in charge of the Department of Personnel and Training, had actually gone through the file or not, because it concerns the credibility of the very governance in this country. Sir, it is not only in the Asian Age. We came to know through Press reports that the hon. Judge of the CBI-designated court had pointed out that Smt. Rabri Devi is a housewife. The hon. Judge of the CBI-designated court had also pointed out that under the prevailing conditions of the social situation in the country, it is very unlikely that a housewife could be in a position to influence her husband. ...*(Interruptions)*... Mrs. Rabri Devi was not a public servant at the point of time when the CBI had filed the chargesheet. ...*(Interruptions)*... Sir, you please protect me.... *(Interruptions)*... It is impossible. *(Interruptions)*... Sir, it will be the death of democracy if a Member cannot speak within the purview of the ...*(Interruptions)*... Sir, I will take just two minutes.

MR. CHAIRMAN : Please wind up.

SHRI NILOTPAL BASU : Therefore, Section 109 of the Prevention of Corruption Act clearly defines that abetting wilfully ...

(Interruptions).. सब तो आप दूध के धूले हुए आदमी हैं वहां पर। बारह के बारह जो हिस्ट्रीशीटर थे जेल में उन्होंने सपोर्ट कर दिया और वह दूध के धूले हुए लोग हैं। करप्शन की बात आपके मुंह से शोभा नहीं देती। छोड़िए वह सब बातें। परदे के पीछे क्या है, वह हम लोग भी जानते हैं।

MR. CHAIRMAN : Please wind up.

SHRI NILOTPAL BASU : Serious questions of credibility on the subject have been raised in the press. I would like to know from the Leader of the House if he would come here and clarify the actual position.

SHRI R. MARGABANDU (Tamil Nadu): Sir, there is no law in the B.J.P. Government ...(Interruptions)

SHRI NARENDRA MOHAN : It is a very late realisation (Interruptions)

SHRI R. MARGABANDU : I will come to that. Let me make my point, please. (Interruptions)

SHRI NARENDRA MOHAN : A case where *prima facie* corruption has been established, is being discussed here. (Interruptions)

श्री नरेन्द्र मोहन : परदे के पीछे क्या है वह हम भी जानते हैं।

SHRI R. MARGABANDU : A case relating to accumulation of disproportionate wealth is registered under the Prevention of Corruption Act. The Prevention of Corruption Act is applicable only to public servants. (Interruptions)...

SHRI RAJU PARMAR : What is wrong with him, Sir? He is interrupting every sentence. (Interruptions) What is this?

SHRI R. MARGABANDU : Kindly allow me to make my point (Interruptions)

श्री दीपांकर मुखर्जी : आपको मंत्री बना देंगे तो अच्छा होगा ...(व्यवधान)...

श्री राजू परमार : आपको घर में बोलने का मौका नहीं मिलता है इसलिए यहां ज्यादा बोलते हैं। ...(व्यवधान)...

MR. CHAIRMAN : Kindly conclude.

SHRI R. MARGABANDU : I will conclude within a couple of minutes. Sir, this is a debate on a matter where cases are registered under the Prevention of Corruption Act. That Act is applicable only to public servants. A case against Shri Laloo Prasad Yadav was registered on the

charge that he has accumulated Rs.42 lakhs while he was the Chief Minister. At that time, Smt. Rabri Devi was not a public servant. The challan was filed in the court wherein Laloo Prasad Yadav alone was the accused.

श्री नरेन्द्र मोहन : आप करप्शन रोजाना करिए । सारा देश जान रहा है ।
...(व्यवधान)...

श्रीमती सरोज दुबे(बिहार) : सर, एक ही सदस्य बार-बार क्यों बोल रहे हैं ।
...(व्यवधान)...

SHRI R. MARGABANDU : Afterwards, when Smt. Rabri Devi became the Chief Minister, her name was added as w abettor. So, that Act is not applicable here. That case will not stand at all That is my first point. My second point is ...*(Interruptions)*...

SHRI NARENDRA MOHAN : Have you read the judgment of the Supreme Court? *(Interruptions)* She is the Chief Minister of Bihar. *(Interruptions)*

श्री खान गुफ़रान ज़ाहिदी (उत्तर प्रदेश) : आप बीच में क्यों बोल रहे हैं ।
...(व्यवधान)... यह क्या कह रहे हैं । ...*(व्यवधान)*...

SHRI R. MARGABANDU : Kindly wait a minute. In such cases, there must be a proof of possession of immovable properties or movable properties. In this case, nothing has been recovered. No documents have been recovered.

SHRI B.P. SINGHAL (Uttar Pradesh) : Mr. Chairman, Sir, the hon. Member should know that this is the Council of States, not the Supreme Court or the High Court.

SHRI R. MARGABANDU: In this case, a case has been filed in respect of the income-tax returns filed by them. A decision has been given by the authority against which there is an appeal pending before the High Court. Now the matter is sub judice. So, when the matter is sub judice, why did they file a case against these persons?

Then, Sir, it is pending before the Patna High Court. No immoveable property has been recovered. The second point is...

MR. CHAIRMAN: We are not discussing the case. We are on[^] discussing the report. ...*(Interruptions)*.

श्री टी.एन.चतुर्वेदी : वह सिब्ल साहब के लिए इनफॉर्मेशन दे रहे हैं ।
...(व्यवधान)...

SHRI NARENDRA MOHAN: He is trying to protect the guilt and trying to protect corrupt persons.

श्री राजू परमार : मेरे ख्याल से नरेन्द्र मोहन जी को ...(व्यवधान)... इसलिए यह ज्यादा बोलते हैं ।

SHRI R. MARGABANDU: Under section 6, *...(Int&Tuptions)...* permission has to be given by the Prime Minister. But, now, in this case, so much noise has been raised. They are not able to say whether the Prime Minister has accorded the sanction for prosecuting them, or, it is only because of the Home Minister, in connivance with the Samata Party, that the case has been filed. *...(Interruptions)...*

MR. CHAIRMAN: We are not discussing the case. *...(Interruptions)...* We are discussing the report only. *...(Interruptions)...*

SHRI M. VENKAIAH NAIDU: Sir, I am on a point of order. A very serious violation is taking place. Rule 238A says, "No allegation of a defamatory or incriminatory nature shall be made by a Member against any other Member or a Member of the *House* unless the Member making the allegation has given previous intimation to the Chairman and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply." Mr. Margabandu is a senior lawyer. He was the Chairman of the Bar Council of India. But, unfortunately, he is violating the rules of the House. Unnecessarily he is defending an indefensible case. My only point is, he should follow the rules. *...(Interruptions)...*

SHRI R. MARGABANDU: They are victimising. *...(Interruptions)...* This Government has no *...(Interruptions)...* at all. *...(Interruptions)...*

श्री रंजन प्रसाद यादव (बिहार) : पहले शांति से सुन लीजिए, उसके बाद बोलिएगा । ...(व्यवधान)...

श्री एम.वेंकैया नायडु : इसमें उनका काम नहीं है

SHRI KAPIL SIBAL (Bihar): Mr. Chairman, Sir, I will not try and say something which is *..... (Interruptions)...* My learned friend would be

kind enough to look *into..(Interruptions)*... I think, Mr. Narendra Mohan has raised a very important issue, and that is, the credibility of the institution. He is right. I don't think that State Governments - I think, it is the case with every State Government ~ investigate crimes properly. I don't think there can be any doubt on that fact. But the greater worry — at least it worries me, as an hon. Member of this House is, ~ this kind of selective persecution and selective prosecution has now permeated into the CBI. That is an institutional concern. It is not a concern regarding 'A' or 'B' I will give a small example. If you remember, there was a case in Himachal Pradesh. I think liquid amount of Rs.3 1/2 crores was recovered. It was called movable assets. This has happened sometime in 1996. The alleged person was caught red-handed. Certain other properties were also recovered. We are in the year 2000. The FIR was bdged in 1996. Mr. Narendra Mohan, you are right; till date, till the year 2000, no charge-sheet has been filed.

SHRI NARENDRA MOHAN: Kapilbhai, charge-sheet has been filed. It has already been investigated. *..(Interruptions)*... Kapilbhai, I request you to please correct your statement. A charge-sheet has been filed. Please get the facts right.

SHRI KAPIL SIBAL : Four years have passed. This is not the only case. In fact, Bhandariji has just *mentioned..(Interruptions)*.

SHRI M. VENKAIAH NAIDU: Sir, we have high regard for KapD Sibaiji He may please try to correct the information.

SHRI KAPIL SIBAL: If my learned friend says so, I will try and correct. Till today, no charge-sheet has been filed. I may be wrong. This is what my information is. Mr. Hiandariji, in fact, pointed to seven cases within this so-called 'fodder scam' and cases in which the amounts involved are over Rs.4-7 crores, where the FIRs were filed in 1995, 1996, 1997 and 1998 and in none of those cases has a charge-sheet been filed. All those cases have been prosecuted by the CBI and investigated by the CBI. I have great regard for the CBI. What I am trying to indicate to hon. Members is, yes, the CBI is an institution which must act fairly and in a manner that should not give the impression that it is picking and choosing, that it is prosecuting one person and not prosecuting another person. If hon. Members would remember, there was a debate in this House on the conduct of the Governor and while that debate was going on, I mentioned, on the

floor of this House, that a case is going to be filed in which Rabri Devi is going to be made an accused. I mentioned it before, in fact, she was made an accused. I will tell you why I mentioned it. I mentioned it because of the timing. The investigation started and an FIR was filed in August, 1998. How is it that on 4th April in the year 2000, a charge-sheet was filed, not earlier, not later? Everybody knew that Nitish Kumarji would no longer be the Chief Minister. They knew that somebody else would be the Chief Minister and they wanted to pre-empt that. I mentioned it on the floor of the House. I was not in the CBI. I was not investigating the case. But somehow, commonsense told me that somebody wants to prevent somebody else from becoming the Chief Minister. If that is the reason, then, why are you blaming the State Governments? Look into your own hearts, look into your own agencies and try and do justice to the people in this country. (*Interruptions*). Similarly, there is another very important issue. (*Interruptions*). There is another important issue which also I raised on the floor of this House. I said, perhaps, a charge-sheet has not been filed because under the judgment of the Supreme Court in the JMM case, clearance has to be taken from the Speaker of the Assembly. The Supreme Court has laid down, by a majority of 3-2, that in all cases in which a Member of the House, whether it is in Parliament or in an Assembly, is going to be prosecuted, before a charge-sheet is filed, the clearance of the hon. Speaker of the Assembly has to be taken. Now, in fact, if you want, I have got the exact quotation with me of the judgment of the Supreme Court in this regard. That is why I had hoped that, in fact, no charge-sheet would be filed. Unfortunately, that did not happen.

MR. CHAIRMAN: Hon. Members, it is 1 o'clock now. Would you like to continue? Yes. (*Interruptions*). Let me tell you. Let me take the sense of the House. After Mr. Sibal, there is no Member from the BJP. So, you would like to complete this Special Mention today. That is all right.

SHRI SURESH KALMADI (Maharashtra) : What about the next, Sir?

MR. CHAIRMAN: It can be taken up tomorrow. There is no problem. But there are other things for tomorrow also. We will have to adjust both.

SHRI KAPIL SIBAL: I thank you very much. Sir. I was mentioning to you the judgment of the Supreme Court. This is what the

1.00 P.M.

Supreme Court says. It says that the Speakers/Chairmen hold pivotal positions in the scheme of parliamentary democracy and are guardians of the rights and privileges of the House. The Chairman of the Rajya Sabha and the Speaker of the Lok Sabha, by virtue of the position held by them, are entrusted with the task of preserving the independence of the Members of the House. " In order to that Members of Parliament may not be subjected to criminal prosecution on the basis of frivolous or malicious allegations at the hands of interested persons, the prosecuting agency before filing a charge-sheet in respect of an offence punishable under sections 7,10,11,13 and 15 of the Prevention of Corruption Act, 1988 against a Member of Parliament in a criminal court, shall obtain the permission of the Chairman of the Rajya Sabha, the Speaker of the Lok Sabha, as the case may be." This is a judgment of the Supreme Court.

SHRI M. VENKAIAH NAIDU: Is it applicable to a Member of the Legislative Assembly?

SHRI KAPIL SIBAL: Yes. The same applies to them. The hon. Member may take it from me, and he may, in fact, inquire from the hon. Minister sitting next to him whether the same applies to them or not. It cannot be that the protection is to a Member of Parliament and not to a Member of the Legislative Assembly. The same protection is available to a U. I had mentioned this fact on the floor of this House during that debate and I was hoping that at least when I brought it to the notice of the Government, an agency like the CBI would take note of it, at least, would take note of the law laid down by the Supreme Court and not go ahead with filing the charge-sheet merely because somebody wanted to gain some political advantage, and that is what concerns me. Sir. The law must take its course. You may file a frivolous case, you may file a genuine case. But the law must take its course. The person who has to be prosecuted will have to defend himself, and under this law, his defence will come at the end. It cannot come in the beginning because there is a presumption as to his guilt and he will have to show that he is innocent. But the point is that once an institution like the CBI gives the impression to the country at large that in this case, we will not file a charge-sheet, in another case, we will file a charge-sheet, in the same case where the allegations are of thousands of crores of rupees, it creates a problem. As you know, Sir, what are the

allegations in the fodder scam case? Rs. 1400 crores? Then it came to Rs. 1100 crores, then it came to Rs. 800 crores, now it is hundreds of crores of rupees, and ultimately, those with whom they found assets over Rs. seven or eight crores, in this very case, there is no charge-sheet. But what are the assets that are found against Laloo Prasad and his family? Rs. 46 lakhs. They say that the check period is between 1990 and 1997, that is, seven years. The income of Laloo Prasadji and his family during these seven years was Rs. 60 lakhs. The expenditure during these seven years was Rs. 18 lakhs. There is an excess of expenditure of Rs. two lakhs and the assets of Laloo Prasadji over these years are Rs. 43 lakhs. So, the total comes to Rs. 45 lakhs or 46 lakhs. That is the total case against Laloo Prasad and his family. I am not going into the merits of the case because we are not concerned here with the merits of the case. But some of the items included will give you the frivolous nature of this prosecution.

[The Vice-Chairman (Shri Adhik Shirodkar) in the Chair]

Some of the items included are the audio cassettes of the members of Laloo Prasad family. *(Interruptions)*

SHRI NARENDRA MOHAN: Sir, I am on a point of order. *(Interruptions)* Sir, you permit a structured *debate*...*(Interruptions)*

श्री रामदेव भंडारी : आप बैठिए । ...*(व्यवधान)*...

श्री राजू परमार : इनको बोलने क्यों नहीं देते हो?...*(व्यवधान)*...

श्री नरेन्द्र मोहन : कांग्रेस के मेम्बर्स की मजबूरी तो समझ में आती है, ...*(व्यवधान)*... सिब्बल साहब बोल रहे हैं,...*(व्यवधान)*...

श्री राजू परमार : आपको धरने का मौका...*(व्यवधान)*...

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR): Kindly take your seats. *(Interruptions)* Mr. Sibal, you are also an eminent senior counsel. When you say, 'it is frivolous,' it appears as if you are passing judgment on the case itself. We shall refrain from it.

SHRI KAPIL SIBAL: No, Sir. I will not refrain from it. I have the greatest respect for you. Every hon. Member of this House is entitled to have an opinion in a matter which is the subject matter of discussion before this House.

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR) It will mean that we are passing judgment in a matter which is *sub judice*.

SHRI KAPIL SIBAL : No, no. I have said: "The frivolous nature of the investigation." I stand by that. *(Interruptions)*

THE VICE-CHAIRMAN (SHRI ADWK SWRODKAR): If that is the case, it means that you are passing judgment over the case.

SHRI KAPIL SIBAL: No, no. It is not a question of passing judgments. This is to be probed in a court of law. *(Interruptions)* These are only in the nature of allegations. You know it. You are yourself an eminent lawyer.

They are to be proved by the CBI. Therefore, I say that the allegations are frivolous. And I repeat it.

THE VICE-CHAIRMAN (SHRI ADMK SMRODKAR) : That has to be decided...*(Interruptions)*

SHRI KAPIL SIBAL: I am entitled to say so. *(Interruptions)*

SHRI M. VENKAIAH NAIDU: It is under the jurisdiction of the court. *(Interruptions)*

SHRI KAPIL SIBAL : It has nothing to do with the jurisdiction of the court. *(Interruptions)* The court has made it clear that.. f7«/errM/7r/o«.sj.

THE VICE CHAIRMAN (SHRI ADHIK SHRODKAR): Let it be very clear *that... (Interruptions)* . Let it be very clear that once a chargesheet is filed, the matter becomes *sub Judice*. *(Interruptions)* And it is for the court to decide whether the matter is right, wrong, frivolous, manipulated, malicious or not. Everything will be decided by the court. Any comment which tends to reflect upon the outcome is improper and it should not be done. Mr. Kapil Sibal, you are aware of it. *(Interruptions)* So, please don't do it. *(Interruptions)*

SHRI KAPIL SIBAL: Sir, we are only discussing the aUegations. *(Interruptions)* I will modify my statement. I will allow the hon. Members to judge whether the allegations are frivolous or not. *(Interruptions)* I withdraw my remarks that the allegations are frivolous. I will place some of these allegations before the hon. Members and aOow them to judge whether they are frivolous or not.

THE VICE CHAIRMAN (SHRI ADMK SMRODKAR) : This play on the words will not satisfy the requirement of rule 238. *(Interruptions)* Let us not say *anything... (Interruptions)*

SHRI KAPIL SIBAL: All right. I wiU not even talk of that. I will only mention the allegations. At least, that should satisfy you.

THE VICE CHAIRMAN(SHRI ADHIK SHIRODKAR): But, no -Member shall then say, 'If these are the allegations, these are frivolous.' That would be sitting in the judgement. So, kindly refrain from doing that. *(Interruptions)*...

SHRI NARENDRA MOHAN: Sir, I just want to know one thing. Are you permitting a structured debate or not? If you are not permitting a structured debate, then, he can only associate himself with what Mr. Bhandary has said. *(Interruptions)*

श्री विजय सिंह यादव (बिहार) : महोदय ...*(व्यवधान)*...

उपसभाध्यक्ष (श्री अधिक शिरोडकर) : आप जो कहना चाहते हैं मुझे कहिए ।

Please don't address him directly. Tell me what you want to say. I am unable to follow you. *(Interruptions)* I am asking everybody, except Mr. Sibal, to sit down. Except Mr. Sibal, everybody, please take your seats. *(Interruptions)* Please take your seats. *(Interruptions)*

SHRI M. VENKAIAH NAIDU: Sir, I am on a point of order. Sir, umpteen times - let us verify the records - it has been clearly held by the Chairman, or, the persons who are presiding over the House, that when a charge-sheet has been filed, it is taken cognizance of, and then, charges are framed. So, you are not supposed to discuss the merits because they are not allegations now. Once the charges are *framed...**(Interruptions)* and the charges have been taken cognizance of...*(Interruptions)*. Please bear with me. *(Interruptions)* There is nothing wrong in raising the issue with regard to the CBI and discussing it. *(Interruptions)* Sir, I am on a point of order.

THE VICE CHAIRMAN (SHRI ADHIK SHIRODKAR): Please let me understand his point of order.

SHRI M. VENKAIAH NAIDU : Please bear with me. *(Interruptions)* There is nothing wrong in raising the issue with regard to the CBI and discussing it. *(Interruptions)*

VEN'BLE DHAMMAVIRIYO: Charges have not yet been framed. *(Interruptions)* You are wrong. *(Interruptions)*

SHRI M. VENKAIAH NAIDU: I am not answering you; I am not responding to you. *(Interruptions)* Sir, please refer to rule 238. *(Interruptions)*

SHRI H.K. JAVARE GOWDA (Karnataka): Only a chargesheet has been filed by the CBI. *(Interruptions)*

THE VICE CHAIRMAN (SHRI ADHK SHIRODKAR) : Now, let us be very clear on this issue. (*Interruptions*) You are also an advocate. The matter is at the investigative stage. After the investigation, the prosecuting, or, the investigating agency files a chargesheet. The moment the chargesheet is filed, a *prima facie* case is made out and without considering the defence, charges are framed. So, chargesheet is the basis. The moment that is done, it becomes *sub judice*. Kindly refrain from making comments on a matter which is *sub judice* by virtue of the fact that a chargesheet has been filed. This is my ruling and please abide by it.

SHRI KAPIL SIBAL: Mr. Vice-Chairman, Sir, I just want to make a correction. In this particular case, after the investigation was completed, a chargesheet has been filed and on the basis of which summons have been issued. In fact, non-bailable warrants have been issued. I will comment on it a little later. But, no charge has yet been framed.

THE VICE CHAIRMAN (SHRI ADHIK SHIRODKAR): That does not matter.

SHRI KAPIL SIBAL: Dki I say that it matters? I am only correcting... (*Interruptions*)

SHRI M. VENKAIAH NAIDU: Sir, I think this is a Special Mention and he can only associate himself. If you are allowing a structured debate, I have no objection. Kapil Sibalji can effectively argue. There is no problem. We can also counter-argue. But the point is that the Chair has given a ruling. Secondly, it is only a Special Mention where a Member can either associate or disassociate.

The point is one cannot go on making out a case for minutes together. What about other special mentions? (*Interruptions*)... What about the practice of the House? (*Interruptions*)... What about the practice of the House? (*Interruptions*)...

SHRI NILOTPAL BASU: Sir, his concern for the rules should be even-handed. Earlier when Mr. Narendra Mohan was speaking for minutes together, these concerns were not at all raised. (*Interruptions*)...

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR): Please sit down. (*Interruptions*)... Mr. Sibal, kindly conclude. (*Interruptions*)...

SHRI KAPIL SIBAL: Mr. Vice-Chairman, Sir, if you ask me to conclude, after I am interrupted again and again and I am not allowed to speak, I will sit down. (*Interruptions*)...

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR) : You are to associate. You kindly associate. *(Interruptions)*... You kindly associate and put an end to it. *(Interruptions)*...

SHRI KAPIL SIBAL: This is not the way. *(Interruptions)*... This is not the way. *(Interruptions)*...

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR) : Please don't say that. *(Interruptions)*...

SHRI KAPIL SIBAL: I am sorry, Mr. Vice-Chairman. *(Interruptions)*... This is not the way. *(Interruptions)*... You don't want to allow me to conclude because somebody..... *(Interruptions)*...

SHRI RAJU PARMAR: Sir, we will walk out. *(Interruptions)*...

SHRI KAPIL SIBAL: Mr. Vice-Chairman, this is not the way. *(Interruptions)*...

श्री मोहम्मद सलीम : महोदय, सरकार के पास एक शब्द नहीं है ।
...(व्यवधान)...

श्री सुरेश पचौरी (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, हमारे माननीय सदस्य को बोलने नहीं दिया जा रहा है, उसे अपना मंतव्य व्यक्त नहीं करने दिया जा रहा है और बीच-बीच में जो व्यवधान पैदा किया जा रहा है, उसके विरोध में हम लोग इस सदन का बहिष्कार कर रहे हैं । ...(व्यवधान)...

श्री रामदास अग्रवाल : उपसभाध्यक्ष महोदय, जान-बूझ कर यह वाक आउट किया जा रहा है ...(व्यवधान).... कई लोग, कई बातें कहते रहते हैं, उस आधार पर ...(व्यवधान)...

श्रीमती सरोज दुबे : महोदय, ये माननीय सदस्य को बोलने नहीं देते ...(व्यवधान).... ये बोलने नहीं देते ...(व्यवधान)...

SHRI VAYALAR RAVI (Kerala) : Sir, the ruling party.... *(Interruptions)*..

(At this stage some hon. Members left the Chamber.)

श्री रामदास अग्रवाल : महोदय, वे लोग जो कानून के शिकंजे में फंसे हुए हैं, जो कानून के शिकंजे में फंस कर ...(व्यवधान).... बात को रखने की स्थिति में नहीं हैं, उन लोगों के समर्थन में इस प्रकार का वाक आउट किया जा रहा है । महोदय, यह वाक आउट

वास्तविक नहीं है। यह वाक आउट केवल उन लोगों को समर्थन देने के लिए किया गया है जो करम्पशन के केसेज़ में कोर्ट में फंसे हुए हैं और जो करम्पशन के केसेज़ में कई वर्षों से फंसे हुए हैं, यह उन लोगों के लिए वाक आउट किया गया है।

THE VICE-CHAIRMAN (SHRI ADHIK SHIRODKAR): I am told that the next speaker is either Mr. Ravi Shankar Prasad or Mr. Venkaiah Naidu.

श्री सतीशचन्द्र सीताराम प्रधान (महाराष्ट्र) : महोदय, चेयर की रूलिंग देने के बाद सम्माननीय सदस्य श्री सुरेश पचौरी ने सदन में अभी जो वक्तव्य किया उसकी वजह से चेयर का अपमान हुआ है और इस विषय का नोट लेने की आवश्यकता है और जो श्री सुरेश पचौरी ने वक्तव्य किया है इस वक्तव्य के बारे में श्री सुरेश पचौरी के ऊपर कार्यवाही होने की आवश्यकता है, यह मेरी मांग है।

श्री नरेन्द्र मोहन : महोदय, मैं इसका समर्थन करता हूँ।

श्री सतीशचन्द्र सीताराम प्रधान : चेयर के निर्णय लेने के बाद उस विषय पर चर्चा होने की भी सदन में प्रथा नहीं है, पद्धति नहीं है और उसका उल्लंघन किया गया है और चेयर ने जो निर्णय लिया उसका अपमान करने के लिए ये लोग सदन से बाहर गए। इसलिए श्री सुरेश पचौरी ने जो वक्तव्य किया है उसके लिए उन पर कार्यवाही होने की आवश्यकता है।

SHRI M. VENKAIAH NAIDU: Sir, the entire House should understand one thing. All of us here go by the Chairman's directions from time to time. Today we have seen in this House that when a Press report was referred to by an hon. Member, he said, "I have a right". When the same thing was done by Chaturvedi, it was said, "3m ^ ^ RM1<^ ^ smH q? ^mr ?^ FMTT ^ W^ ^idlil'!" ?" This is number one. Secondly, it is only association. It may be for one minute, two minutes, three minutes, four minutes, five minutes, seven minutes or eight minutes. If one goes on making a speech and somebody raises a point of order, they say, "No, you can't raise a point of order". Then, what for are the rules? My submission to the hon. Chair is that the House should run as per the rules and as per the procedure. There cannot be two sets of rules, one for us and another for the other side. That is why we request you to look into the record and if anything has been said denigrating the Chair or questioning the Chair's ruling, necessary action has to be taken. I am not suggesting that some

[18 APRIL, 2000]

RAJYA SABHA

action has to be taken against the Member as such till the records are verified. But everybody should realise that we have to conduct the House in a dignified manner and in a decent manner as per the rules.

THE VICE-CHAIRMAN (SHRI ADMK SHRODKAR): Thank you very much. Thank you for the words and sentiments that you have expressed regarding the ruling of the Chair. It should be respected. In our judicial discipline, from which I come, in such type of a contempt, unless it goes to the very root of judicial decorum or decency, we tend to ignore it by maintaining our own dignity. If the dignity has not been maintained by an hon. Member or a section of Members, we shall ignore it. But it is high time that we should decide in what manner we should conduct ourselves in the Rajya Sabha. Personally, I feel that we are going in a wrong direction. That is my feeling not only as a Member of this House; but I belong to a discipline with which I have been associated for the last 45 years as an advocate. Sometimes something wrong happens. It is high time that the leaders should sit together and decide whether the way we are going along is a healthy tradition or we should seriously have a look at it. Thank you very much. Now, before I call upon the next Member, there is a message from Lok Sabha.

MESSAGE FROM THE LOK SABHA

Re: Joint Committee on Offices of Profit

SECRETARY GENERAL: I am directed to inform you that Lok Sabha, at its sitting held on Tuesday, the 18th April, 2000, adopted the following motion:-

"That this House do recommend to Rajya Sabha that Rajya Sabha do elect two members of Rajya Sabha, in accordance with the system of proportional representation by means of the single transferrable vote, to the Joint Committee on Offices of Profit in the vacancies caused by the retirement of Sarvashri Onkar Singh Lakhawat and Sanjay Nirupam from Rajya Sabha and do communicate to this House the names of the members so elected by Rajya Sabha to the Joint Committee." I am to request that the concurrence of Rajya Sabha in the said

motion, and also the names of the members of Rajya Sabha so appointed, may be communicated to this House."