

Maharashtra, 18 custodial deaths in Madhya Pradesh, 16 custodial deaths in Uttar Pradesh and 14 custodial deaths in Assam. These are the figures.

-SHRI KAPIL SIBAL: Sir, I don't think that any right thinking person or any Government would ever say that custodial death is acceptable. But we have to go to the genesis of the problem. The genesis relates—I have some experience in this area of law—to the time when the Police takes into custody any particular individual. Custodial death unlike murder is normally not Pre-planned. It is not like an ordinary murder. It is a slow process. When the Police takes into custody a particular accused, they don't enter it in the register. That is the normal practice which the Police follows. That is the normal practice throughout India. They never enter in the register when a particular man is taken into custody. As you know, Sir, under the Constitution the Police is entitled to keep a man in custody for 24 hours without producing him before a Magistrate. If they do not enter in the register as to when he was taken into custody, they can keep him as long as they like. It is only when they enter it in the register, then within 24 hours he has to be produced before a Magistrate. In the process he can be terrorised and he can be maltreated. That is a slow process. When accused persons are taken to court they can file an application before a Magistrate and say, "Conduct a medical examination of my person". Normally, the Magistrate allows it. But such a facility has neither been provided by the Government nor under any rule is an accused or a prospective accused entitled to medical examination in the course of his custody. My question is: Could you please look into this matter and deliberate as to how you can provide a doctor visiting places of custody on a daily basis, not under the control of the Police. The doctor can find out from the accused if at all he has been maltreated? That is the best way of dealing with this problem. That is question number one.

My second question is.....(Interruptions). I have to learn the tricks of the trade. okay, part (b) of my question is this. The hon. Member has rightly mentioned that the investigation must be separated from normal Police functioning. This has been done in China. It has proved extremely successful. The other problem which the hon. Member raised is, the culture of the Police. That has to be changed. That is the real problem. If they don't understand that accused also have human rights, There will be custodial deaths. The Problem is social Professional and legal. The Government has to take an overall view and see what steps it can take to deal with the matter.

SHRI L. K. ADVANI: Sir, so far as part (b) of his question is concerned, I entirely agree with the hon. Member that this is not just a problem of law, it is more a problem of attitude and mentality and approach to issues such as human rights. We have to tackle the crime. But, at the same time, we have to respect the human rights. These two things have to be ingrained in the law and order machinery as a whole. We have been consciously trying to do that. When you create an institution like the National Human Rights Commission in the country, you are in a way having the whole country move towards that and the Government also moves towards that.

So far as part (a) of his question is concerned, I would say that it is not a question. It is a suggestion for action which this Government will keep in mind.

MR. CHAIRMAN: Question No. 603.

भूमि अर्जन कानून में संशोधन

*603. श्री राजनाथ सिंह "सूर्य" क्या ग्रामीण क्षेत्र और रोजगार मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या ग्रामीण विकास के लिए भूमि अर्जन कानून में संशोधन किये जाने का कोई प्रस्ताव है,

(ख) यदि हाँ, तो उसके क्या कारण हैं,

(ग) क्या पंचायती राज संस्थाओं के कार्यकरण की समीक्षा किये जाने का प्रस्ताव है, और

(घ) यदि हां, तो तत्संबंधी ब्यौर क्या है?

ग्रामीण क्षेत्र और रोजगार मंत्रालय के राज्य मंत्री (श्री बाबागौड़ा पाटिल): (क) से (घ): एक विवरण सभापटल पर रखा जाता है।

विवरण

(क) जी, हां। भूमि अर्जन अधिनियम, 1894 संशोधन के प्रस्ताव पर सरकार सक्रिय रूप से विचार कर रही है।

(ख) प्रस्तावित संशोधनों के उद्देश्य और कारणों में अन्य बातों के साथ-साथ सौलनार्थ क्षतिपूर्ति में वृद्धि सहित उदार मुआवजे का भुगतान करना, अर्जन की समय-सीमा में कमी करना, विस्थापित व्यक्तियों के वास्तविक पुनः स्थापन और पुनर्वास को व्यवस्था करना, निजी क्षेत्र को भूमि के अर्जन की सुविधा प्रदान करना और भूमि अर्जन की प्रक्रिया में सभी स्तरों पर लोगों की भागीदारी और पारदर्शिता को बढ़ाना शामिल है।

(ग) और (घ) 73 वां संशोधन अधिनियम, 1992 के प्रावधानों के अनुसार राज्य/संघ राज्य क्षेत्र सरकारों को अधिनियम के अनिवार्य प्रावधानों को कार्यान्वित करना होता है और पंचायतों को ऐसे अधिकार और कार्यभार देना होता है जिससे वे स्वशासन की इकाइयों के रूप में कार्य कर सकें। भारत सरकार समय-समय पर अनेक उपायों, जैसे कार्यशालाएँ, राज्य/संघ राज्य क्षेत्र सरकारों के साथ उच्च स्तरीय समीक्षा बैठकें आयोजित करके तथा अलग-अलग राज्यों/संघ राज्य क्षेत्रों में गहन अध्ययन करके तथा उपचारी कार्यवाई को सुविधा प्रदान करने की दृष्टि से संबंधित सरकारों को निर्णय की सूचना देकर पंचायतों के कार्यों की समीक्षा करती है। हाल में 13-5-1998 को राज्य पंचायती राज मंत्रियों के सम्मेलन में पंचायतों की कार्यप्रणाली की समीक्षा की गई थी और इसमें पंचायती राज संस्थाओं के ढांचे और कार्यों की समीक्षा करने के लिए एक उच्च स्तरीय कार्य बल गठित करने का निर्णय लिया गया था।

श्री राजनाथ सिंह "सूर्य": सभापति जी, मंत्री जी ने जो उत्तर दिया है, उसमें मेरे प्रश्न के पहले भाग के उत्तर में यह कहा गया है इस भूमि अर्जन अधिनियम 1894 में सरकार ने संशोधन प्रस्तावित किया है। महोदय, इसके जो उद्देश्य और कारण बताए गए हैं, उसमें एक-दो कारण तो समझ में आते हैं परन्तु जो बाद

के कारण बताए गए हैं, उसमें कहा गया है कि हम निजी क्षेत्र को भूमि के अर्जन की सुविधा प्रदान करेंगे।

श्रीमान, हम जानते हैं कि हमारे वनों की कटाई जब शुरू हुई थी तो इसी संसद ने एक कानून पास करके यह निश्चय किया था कि वन भूमि की कटाई किसी भी काम के लिए करने नहीं देंगे और कुछ राज्यों में ऐसी व्यवस्था है कि कृषि योग्य भूमि का अर्जन किसी अन्य काम के लिए नहीं होगा। महोदय, हम यह भी जानते हैं कि हमारा कृषि का उत्पादन निरंतर घटता जा रहा है और कृषि क्षेत्र की भूमि भी घटती जा रही है। यह जो संशोधन विधेयक प्रस्तावित है, यदि इसमें निजी क्षेत्र को कृषि योग्य भूमि का अर्जन करने की सुविधा प्रदान की गई तो उसका परिणाम हमारे कृषि उत्पादन पर पड़ेगा। इसलिए मैं मंत्री जी से यह जानना चाहता हूँ कि क्या वह सदन को यह आश्वासन देंगे कि जो यह संशोधन विधेयक प्रस्तावित है, इसमें संशोधन करते समय सरकार इस बात की गारंटी देगी की कृषि योग्य भूमि को किसी अन्य कार्य के लिए अर्जित नहीं किया जाएगा?

SHRI BABAGOUDA PATIL: Sir, in the proposed amendment to the Bill, it has been clearly stated that it is mandatory to get clearance from the Land Use Board, where such land use Boards have not been set up, states may set up such Boards.

श्री राजनाथ सिंह "सूर्य": श्रीमान, मंत्री जी ने इसका उत्तर नहीं दिया है। इन्होंने कहा कि हम लैंड यूज बोर्ड गठित करेंगे। मेरा तो सीधा प्रश्न है कि जो कृषि योग्य भूमि है, उसको कृषि के अतिरिक्त किसी अन्य कार्य के लिए अर्जित नहीं किया जाएगा, क्या इस प्रकार की कोई गारंटी या आश्वासन सदन को देने की कृपा करेंगे?

SHRI BABAGOUDA PATIL: For that purpose only it has been set up. The policy is that, the acquisition of fertile agricultural land should be the minimum.

श्री राजनाथ सिंह "सूर्य": सभापति महोदय, मेरा दूसरा पूरक प्रश्न मूल प्रश्न के "ग" भाग से संबंधित है। इसके उत्तर के अंत में मंत्री महोदय ने कहा है कि पंचायती प्रणाली की समीक्षा करने के लिए एक कार्य दल गठित किया गया है। मैं मंत्री महोदय से जानना चाहता हूँ कि इस कार्य दल के समस्त विचारणीय बिंदु क्या हैं? क्या प्वाइंट्स हैं जिन पर वह विचार करेंगे? कब तक इसका प्रतिवेदन आ जाएगा और उसको लागू

करने के संदर्भ में सरकार की नीति क्या होगी? क्या यह मैनेजेटरी होगा या फिर ऐसा होगा कि जैसे इस समय पंचायती राज्य व्यवस्था है और उसके लिए निर्धारित नियमों का परिपालन नहीं हो रहा है? उसी प्रकार से इसको खुला छोड़ देंगे या उसके लिए कोई प्रतिबद्धता भी निर्धारित करेंगे?

SHRI BABAGOUDA PATIL: Sir, the Government of India is pursuing with State Governments by holding meetings of Chief Ministers and Ministers of Rural Development of various States. The first meeting was held on 2nd August, 1997, and the States were asked to delegate powers to implement the proposals. And the second one was held on 13th May, 1997, and it was addressed by our hon. Prime Minister. Our Prime Minister also advised the State Governments to implement 29 subjects pertaining to the 73rd Amendment. And we are writing letters to all the State Governments to implement them.

श्री राजनाथ सिंह "सूर्य": आपने अपने उत्तर में टास्क फोर्स का जिक्र किया है। मैं उसी संदर्भ में जानना चाहता हूँ।

SHRI BABAGOUDA PATIL: We have appointed a task force for this purpose...

श्री राजनाथ सिंह "सूर्य": मैंने पूछा था टास्क फोर्स के लिए ... (व्यवधान)

श्री सभापति: आप सेक्रेड सप्लीमेंटरी कर रहे हैं ना (व्यवधान)

श्री राजनाथ सिंह "सूर्य": मेरे प्रश्न का जवाब नहीं आया है। मैंने पूछा था कि टास्क फोर्स के लिए क्या विचारणीय बिंदु है? उसकी रिपोर्ट कब तक आ जाएगी? उसको लागू करने के संबंध में सरकार की नीति क्या होगी?

SHRI BABAGOUDA PATIL: It has been appointed only recently. The task force has been appointed for setting up of district planning committees for linkage of DRDs with zilla panchayats and for delegating powers, functions and responsibilities to State Governments. For this purpose, a Task Force has been appointed. It has been appointed only re-

cently. It will give its report in the near future.

DR. BIPLAB DASGUPTA: Sir, I am slightly worried about one part of the answer given by the hon. Minister, wherein he says that one of the reasons for thinking of changing the Land Acquisition Act is to facilitate acquisition of land by the private sector. Now, this can mean two different things. If it means for some large industries because there is a constraint of land and it cannot be otherwise satisfied, industrialisation will be affected and so on, then I can understand it. But if it means use by commercial houses for feeding their own workers, for plantations and other things, then I have a problem, because if you take the Wasteland Development Board, an idea has been going on for the last ten years that the wasteland is an empty land and so you just take it over and give it to a company. But that is not the case. Even in the case of the so-called wasteland, there are local people, local communities, which have been using the products of that wasteland, which have been grazing their animals there, and their own ecology is disrupted completely if it is taken over by the companies. Moreover, when they introduce their crops, basically the commercial crops, maybe they don't have that undergrowth which would, on the one hand, supply them the minor forest products and, on the other hand, the fauna that is for the growth of small animals and which they also use for eating and all that, that also don't grow. So, there is a risk that this kind of privatisation also might lead to a serious disruption of the local ecology. So, I am asking this question from the hon. Minister: Should he not think of an alternative, not giving it to the private sector, but to really mobilise the local population, both to protect the ecology as also to work out an alternative land use pattern, which gives the most efficient return, rather than giving it to big companies.

SHRI BABAGOUDA PATIL: When the Bill comes up for discussion, hon. Member's suggestions will be considered.

SHRI JANARDHANA POOJARY: Sir, after the 73rd Amendment of 1992, the State Governments have passed some laws. As per the mandatory obligations, as per the Constitution, the State Governments must hold Gram Sabhas and there should also be sufficient funds made available to these Panchayats. Unfortunately, adequate funds are not being made available to Panchayats, in spite of the fact that the State Finance Commissions are to be constituted by the State Governments. The money that has been sent by the Central Government, has been used for ways and means and it is not being given to Panchayats. I would like to know whether the State Governments will be asked by the Central Government to implement the provisions of the Constitution. If not, what action will be taken against such State Governments?

SHRI TRILOKI NATH CHATURVEDI: The question doesn't relate to Panchayat finances.

SHRI BABAGOUDA PATIL: But the two are connected, Sir.

It is not mandatory now. But the States are constantly being pursued to make provisions for delegating powers and funds to Panchayati Raj institutions.

SHRI M. VENKAIAH NAIDU: The main problem is that the States were clamouring for more and more powers and it had been accepted by one and all. But these Panchayati Raj institutions, the Gram Panchayat, the Taluka Panchayat or the Mandal Panchayat or whatever it is, are crying now and saying that powers have been given to the State but the same powers have not been devolved to the lowest level of the decentralised administration, that is, the Panchayats. That being the case, will the Centre take this particular aspect into consideration and try to bring in some other amendment to see to it that funds and powers are given to the lowest level of

the administration, that is, the Panchayat, which is the main agency for development at the lowest level?

SHRI BABAGOUDA PATIL: It is for the Parliament to amend the Constitution, Sir. But we will consider it.

SHRI R. MARGABANDU: Sir, the original Act of 1894 treats land as property. When it is acquired, compensation is given. It was further amended in 1984 wherein some concessions had been given. Sir, as per this Act, if the property is acquired by the Government, then the Government should assure employment opportunities and alternative sites to those people. But, it is denied everywhere. They take the land and leave the people in the lurch without giving any job opportunities and without giving any alternative site. So, these people are suffering very much. This is happening everywhere. Recently, there was an announcement by the Minister that there is a proposal for amending this Act. I would also like that enhanced compensation should be given under this Act.

Sir, the Tamil Nadu Government has passed an amendment saying that soon after an award is passed, the amount can be deposited in the court, but shall not be withdrawn by the interested parties until the matter is decided at the highest level, i.e., the Supreme Court. It takes four or five decades for final disposal of a case in the Supreme Court. The said amendment of the Tamil Nadu Government is against the spirit of the Central Act itself. I want to know whether the Government would take steps to repeal section 23A of the Tamil Nadu Amendment Act of 1996 and whether job opportunities and alternative sites will be assured to those people whose land is acquired.

SHRI BABAGOUDA PATIL: Sir, till now land is treated as property. But, in the proposed Bill, land is treated as livelihood. Considering land as livelihood, we are making provisions in resettlement and rehabilitation policy.

After the Bill is passed, the Central Act will prevail over that Act.

SHRI R. MARGABANDU: What about giving job opportunities and alternative sites to those people?.... (Interruptions)....

श्री ईश दत्त यादव: माननीय सभापति जी, मैं आपके माध्यम से मंत्री जी से यह जानना चाहता हूँ कि लैंड एक्विजिशन एक्ट में संशोधन प्रस्तावित है। क्या उसमें जब संशोधन होगा या करने का सरकार का विचार है कि जो कृषि की भूमि अधिगृहीत कर ली जाती है जिससे बहुत से किसानों के पास भूमि नहीं रह जाती है जो कि उनकी जीविक का एकमात्र साधन होती है। तो क्या सरकार इस प्रस्ताव पर भी विचार कर रही है कि अगर कोई भूमि ले ली गई किसी किसान की तो उसके बदले में जो गांव-समाज की भूमि रहती है या सरकारी भूमि रहती है, वह उसे दी जा सकती है, इस तरह का कोई प्रस्ताव है? यह तो पार्ट ए है और पार्ट बी यह है कि गांव सभाओं को बहुत से अधिकार दिए गए 73वें अमेंडमेंट के तहत और मंत्री जी ने उत्तर दिया है कि समय-समय पर भारत सरकार इसको रिव्यू कर रही है ताकि गांव सभाओं को या स्थानीय निकायों को ज्यादा शक्तिशाली बनाया जाए, अधिकार सम्पन्न बनाया जाए। तो अब तक जो रिव्यू हुए हैं, पुनरीक्षण हुए हैं, आपने उत्तर दिया है कि बहुत से हुए हैं, तो उनका परिणाम क्या रहा है? उसमें पंचायती संस्थाओं में क्या कमियां पाई गईं और सरकार ने उनके अधिक अधिकार सम्पन्न बनाने के लिए क्या निर्देश दिए हैं राज्य सरकारों को?

SHRI BABAGOUDA PATIL: Sir, the hon Member correctly said that so many marginal farmers are dependent on Government land also. If the land is taken away from them, we are providing some alternatives to those displaced people also. As far as SCs and STs are concerned, we are making provision to give them land only.

As far as part(b) of his question is concerned, we are not satisfied with the functioning of the existing Panchayati Raj institutions.

SHRI S. B. CHAVAN: Sir, in reply to hon. Margabandu's question, I have not been able to understand how it is that when the Land Acquisition Act which, in fact, is a Central Act, any amendment to

the Central Act is referred to the Central Government before it becomes enforceable. The money which is deposited under the Land Acquisition (Amendment) Act of Tamil Nadu in the name of the concerned parties, it takes 20 to 25 years when it becomes available to the concerned parties. This frustrates the very idea of the Land Acquisition Act and of paying compensation to the concerned persons. When this matter was referred to the Government of India, did the Government of India apply its mind to this provision before approving the same? This is the first part of my question. The second part of my question is with regard to the powers given to the Panchayati Raj Institutions and the amounts of money which have been made available to the State Government for passing on to the Panchayati Raj Institutions. Strangely, in spite of the fact that repeated requests have come to the notice of the Government, this money is not being utilised for the purpose for which it has been sent to the State Governments. More or less they are using this money as ways and means advance. They are using this money even when their financial position is normally sound. This money is being used as ways and means advance which defeats the very purpose for which the money is being advanced to the State Governments. Can we not think in terms of sending it direct to the Panchayati Raj Institutions, instead of sending it to the State Governments, so that this money can be utilised for the purpose for which it is being sent?

SHRI BABAGOUDA PATIL: Sir, taking into consideration the difficulties faced by the farmers in different States, the proposed Land Acquisition Act is going to be placed before the House(Interruptions)

SHRI S.B. CHAVAN: I am not asking that. Please reply to the question which I have put. I would like to know when this Act of Tamil Nadu was referred to the

Central Government whether you had applied your mind at that stage.

SHRI BABAGOUDA PATIL: I need a separate notice for that.(Interruptions)...

MR. CHAIRMAN: It is all right(Interruptions)....

श्री रमार्शकर कौशिक: सान्यवर, माननीय मंत्री जी ने कहा है कि हाल में 13.5.98 को पंचायती राज मंत्रियों के सम्मेलन में पंचायतों की कार्य प्रणाली की समीक्षा की गयी थी और इसमें पंचायती राज संस्थाओं के ढांचे और कार्यों की समीक्षा करने के लिए एक उच्च स्तरीय कार्य दल गठित करने का निर्णय लिया गया था। तो श्रीमन् मैं आपके माध्यम से मंत्री जी से जानना चाहूंगा कि इस कार्य दल में कौन-कौन सदस्य होंगे? क्या केवल केन्द्र से ही वह कार्यदल गठित होगा या विभिन्न प्रदेशों से भी उसमें लोग जाएंगे? और दूसरा प्रश्न है कि इस बात को भी क्या यह कार्यदल देखेगा कि बहुत सी जगहों पर पंचायती राज बने हैं और उसके मुताबिक संस्थाएं बनी हैं। ऐक्ट के मुताबिक उनमें ऐसी कोशिश की जा रही है कि उसके स्वरूप को ही बदला जा रहा है कि निर्वाचित सदस्यों के अतिरिक्त कहीं-कहीं 10-10, 5-5, 6-6 आदिमियों को नॉमिनेट करके सरकार भेज रही है। तो उसका स्वरूप बदल जाता है। जो चुनाव से चुने हुए लोग गये हुए हैं— इस ऐक्ट में यह व्यवस्था है कि चुनाव से जो चुने हुए लोग जाएंगे, उन्हीं लोगों को उसमें करीयता दी गयी है और केवल ऐसे लोगों को, ऐक्सपर्ट्स को उसमें रखा जाएगा जो वहां के कार्यों को जानते होंगे लेकिन उन्हें वोट का अधिकार नहीं होगा। पर उत्तर प्रदेश की सरकार ने उनको वोट देने का अधिकार भी दे रखा है और उसके पूरे स्वरूप को बदल दिया है। इसी के साथ ही इस बात की भी कोशिश वहां की जा रही है कि विभिन्न दलों से जो जिला पंचायत अध्यक्ष चुने गये हैं, उनको हटाने की मुहिम की जाए, उनके वित्तीय अधिकार छीने जाएं। इस प्रकार की भी कोशिश हो रही है। तो मैं माननीय मंत्री जी से जानना चाहता हूँ कि क्या कार्यबल इस बात को भी देखेगा कि इन संस्थाओं का स्वरूप न बदलने पाए और इन संस्थाओं को अपने स्वतंत्र रूप से काम करने की सुविधा, जैसे कि ऐक्ट के मुताबिक है, वह उन्हें प्राप्त होती रहे?

SHRI BABAGOUDA PATIL: Sir, this Task Force consists of a Union Minister as its Chairman and the Ministers of Rural Development and Panchayati Raj of West Bengal, Rajasthan, Kar-

nataka, Punjab and many educationists, experts and senior officials are the members of this Task Force. The total number of members comes to 25. As far as part (b) of the question is concerned, I would like to say that the 73rd Amendment gives guidelines to the State Governments to frame rules and make a legislation. It is left to the State Government to see whether the nominations should be made or not.

TWRF for state Textile Mill Workers

*604. **SHRI GHUFRAN AZAM:**†
SHRI RAMJI LAL:

Will the Minister of TEXTILES be pleased to state:

(a) whether Textile Workers Relief Fund (TWRF) Scheme introduced in 1986 to give relief to the workers of all closed textile mills was manipulated to deprive the relief under this scheme to State Public Undertaking textile mills on the basis of some imaginary compensation packages which were never made available to them;

(b) if so, the number of such workers, mill-wise, and region-wise, and the justification for denying relief to them under this scheme; and

(c) the remedial measures contemplated by Government to obviate this brazen injustice being done to these helpless workers?

THE MINISTER OF TEXTILES (SHRI KASHIRAM RANA): (a) to (c) A statement is laid on the Table of the House.

Statement

(a) No Sir. While only one State Public Sector textile mill, located in Himachal Pradesh, closed under section 25(O) of the Industrial Disputes Act, 1947, involving 158 workers, had applied for relief under the Textile Worker's Rehabilitation Fund Scheme (TWRFS), it has not been possible to extend the benefits under TWRFS to these workers, as the benefits