

RAJYA SABHA

Thursday, the 27th April, 1995 7th
Vaisakha, 1917 (Saka)

The House met at eleven of the clock. Mr.
Chairman in the Chair'.

MEMBER SWORN

Shri K. Karunakaran (Kerala)

ORAL ANSWERS TO QUESTIONS

Recommendations of Dinesh Goswami Committee

5il. SHRI RAJ NATH SINGH
DR. SANJAYA SINGH

Will the PRIME MINISTER be pleased to
refer to the answer to Unstarred Question
3989 given in the Rajya Sabha on the 21st
April, 1994 and state:

(a) whether Government have
completed the consideration of other
recommendations of the Dinesh Gos-
wami Committee Report on which
Government proposed to bring for-
ward a comprehensive package; and

(b) whether Government propose
to bring a legislation on electoral
reforms to implement the Dinesh
Goswami Committee Report in letter
and spirit?

THE MINISTER OF STATE IN THE
MINISTRY OF LAW, JUSTICE AND
COMPANY AFFAIRS (SHRI H. R.
BHARDWAJ): (a) and (b) Government have
since examined the other main
recommendations of Dinesh Goswami
Committee alongwith the proposals received
from Election Commission of India and have
finalised a package on electoral reforms
These proposals were discussed with

(The question was actually asked on the
floor of the House by Dr. Sanjay Sinh.

representatives of the political parties and
after taking into account their views,
Government have already introduced a Bill
namely, the Representation of the People
(Second Amendment) Bill, 1994 in the Lok
Sabha on 13 th June, 1994.

डा. संजय सिंह : माननीय सभापति
जी, क्या माननीय विधि मंत्री जी बताने
का कष्ट करेंगे कि मुख्य चुनाव आयुक्त के
अधिकार क्षेत्र संबंधी विवाद को हल करने
हेतु क्या सरकार कोई ठोस कदम उठा
रही है या नहीं ?

SHRI H. R. BHARDWAJ: Sir, there are
some matters which the Supreme Court has
heard and the judgment is awaited. Regarding
treating the expenditure of the Election
Commission as 'Charged' expenditure, we
have already introduced a Bill in the Lok
Sabha.

डा. संजय सिंह : महोदय, मैं जानना
चाहूंगा कि हाल ही में बिहार में जो कई
बार चुनाव टाले गए क्या यह मुख्य चुनाव
आयुक्त के अधिकार संबंधी विवाद के
परिणामस्वरूप हुआ था या इसके पीछे
कोई और कारण रहा ?

SHRI H. R. BHARDWAJ: As the House is
aware, the conduct of elections is the
prerogative of the Election Commission. The
Election Commissioner has been issuing
orders from time to time during the election
process- These are matters which are covered
by several decisions of the court. So far as
the Government is concerned, they have no
comments to offer.

श्री सत्य प्रकाश मासवीय : माननीय
सभापति महोदय, मैं मंत्री महोदय से यह
जानना चाहता हूँ कि जो 1994 का विधेयक
लोकसभा के समक्ष विचाराधीन है, उसके
बाद चुनाव कानून को लेकर कुछ घटनाएं
इस देश में घटी हैं, जैसे कि ससी राज-
नीतिक दलों का, सरकार का और स्वयं
चुनाव आयोग का यह मत था कि नाम-
जदगी की तारीख से लेकर जी चुनाव
कि तिथि है उसकी रेंज बहुत कम होनी

चाहिए और इसको घटाकर 21 दिन किया गया था। इस बार विशेषकर के बिहार के चुनाव में यह हुआ कि नामजदगी की तारीख से लेकर जो मतदान की तिथि थी, उसमें करीब-करीब तीन महीने का समय भीत गया। तो मैं यह जानना चाहता हूँ कि यह जो नया एक अनुभव हुआ है चुनाव प्रक्रिया को लेकर, इसको भी ध्यान में रखकर क्या सरकार, जो विशेषक लंबित है, उसमें कुछ संशोधन पेश करेगी ?

SHRI H. R. BHARDWAJ: Sir, this problem of Bihar elections is of recent origin. Earlier we had discussions with all political parties and the Standing Committee also, headed by Shri Madhavsingh Solanki, made a recommendation and our Bill, which has been presented in the Lok Sabha, is based on that recommendation—This is a new problem because of which elections had to be postponed time and again. We will again go back to all the political parties and discuss with them and if anything is suggested, we will certainly look into that.

श्री चतुरानन मिश्र : सभापति महोदय, मैं सरकार से जानना चाहता हूँ कि यह ठीक है कि बिल इंट्रोड्यूस हुआ, लेकिन क्या इस बात की गारन्टी की जाएगी कि लोक सभा चुनाव आने के पहले उसको कानून का रूप दिया जाएगा या इसी तरह पेंडिंग रखा जाएगा ? इस पर विचार करेंगे, उस पर विचार करेंगे, क्या यही चलता रहेगा या कोई टाइम लिमिट है ? क्या इसके अन्दर सुप्रीम कोर्ट का जजमेंट आने के बाद आप उसको एनेक्ट कर देंगे ? यही हम जानना चाहेंगे।

श्री एच. आर. भारद्वाज : यहां तक इस रिप्रजेंटेशन आफ पीपल एक्ट के अमेंडमेंट की बात है, उससे सुप्रीम कोर्ट का कोई ताल्लुक नहीं है। यह जब भी मदन चाहेंगे, पास हो सकता है और हमारी इच्छा है कि जल्दी से जल्दी इनको पार करवाया जाए। जब भी सेशन में आप लोग चाहेंगे, यह पास हो जाएगा।

श्री चतुरानन मिश्र : हम चाहेंगे और हम तो चाह रहे हैं कि आज लाइएगा।

श्री सतीश अग्रवाल : अभी।

श्री चतुरानन मिश्र : आप बोलिए, आप चाह रहे हैं, न ?

श्री जगदीश प्रसाद माथुर : हां, चाह रहे हैं।... (व्यवधान)...

SHRI H. R. BHARDWAJ: Sir, it is not a question of an individual Member. The question is that it is the Business Advisory Committee.

I have already introduced it. I am bound by the procedure of the House. If they tomorrow say that this is an appropriate occasion, then I will have to take it up.

SHRI CHATURANAN MISHRA: All right. (Interruptions).. I will request the BAC to accept it for tomorrow.

MB. CHAIRMAN: Take note of that.

श्री जगदीश प्रसाद माथुर : श्रीमान्, मैं पूछना चाहूंगा कि इलेक्शन कमीशन ने कोड आफ कंडक्ट बनाया है और यह भी सिफारिश की है, कमीशन ने, कि इलेक्ट्रॉनिक मशीन शुरू की जाए। तो क्या सरकार कोड आफ कंडक्ट में यह जो बिन्दु है, उनको कानून के रूप में समाहित करने पर विचार कर रही है ? और, क्या इलेक्शन के लिए इलेक्ट्रॉनिक मशीन का उपयोग करने के लिए निर्णय लिया गया है ?

SHRI H. R. BHARDWAJ: Sir, the provision of giving a statutory backing to the model code of conduct is a part of that Bill which has been introduced and it is a major reform that has been brought about. Nothing is left to imagination. They have been defined and incorporated and they are now punishable. Now, they are not model code of conduct,

but they are provisions of law and i: that Bill is passed, then nothing will be left to imagination.

SHRI JAGDISH PRASAD MATHUR What about the machine?

SHRI H. R. BHARDWAJ: Sir, regarding the machine I would like to answer. We have already amended the law. They can be introduced. ... (*Interruptions*)

श्री जगदीश प्रसाद माथुर : गवर्नमेंट इसको प्रोड्यूस करे, लाए, उसका सबाल है। (व्यवधान)

SHRI H. R. BHARDWAJ: I don't think that the Government comes into it. We have already amended the rules. We have made the machine available. The Election Commission can use it anywhere if it likes.

श्री जगदीश प्रसाद माथुर : मशीनें किसके कब्जे में हैं ? सरकार के कब्जे में हैं या इलेक्शन कमिशन के कब्जे में हैं ?

श्री एच. आर. भारद्वाज : इलेक्शन कमिशन के।

SHRI JAGDISH PRASAD MATHUR: Is it a fact? SHRI H. R. BHARDWAJ: Yes, Sir.

DR. BIPLAB DASGUPTA: Sir, since June, 1994, a lot of water has flowed into the river Ganges which has not been taken into account in the reply given by the Minister. Sir, three types of issues arose. The first related to the respective powers of different Commissioners in the multi-member Election Commission. That idea was dropped after a lot of discussion because the Government had doubts whether it would have two thirds majority in the -Upper House. The second point was, although it requires a two-thirds majority, there was no doubt about it in this House¹, regarding the delimitation of the constituencies.

Although if was a Constitutional amendment to be proposed, I do not think there is any problem with that in this House. I would like to know why it is not being brought forward.

The third relates to various procedures of elections, for example, the electoral expenses, campaigning on religion, photo identity cards, etc. The Bill containing these requires only a simple majority. I do not know why this also is not being brought forward. It could have been brought forward during June-July. We are already too late. Whenever I see Mr. Bhardwaj in this House, I go to him, ask and harass him, "Why are you not bringing forward the Bill?" Earlier, Mr. Solanki's Committee was going through it by examining the witnesses. That is understandable. Now, I understand that the Committee has already given the report. There is absolutely no reason why this Bill should not be Put on the agenda tomorrow as has been suggested. I would like to have a categorical assurance from the Minister. I do not think there will be any opposition from any Member of the Business Advisory Committee on this- This Bill be put on the agenda for business for the next day. I hope the Minister will respond to this.

SHRI H. R. BHARDWAJ: Sir, I would like to inform the hon. House that so far as the multi-member Commission is concerned we have implemented it. Today the Election Commission is a multi-member Commission. The Chief Election Commissioner has contested this implementation and the matter went to the court. (*Interruptions*). Please allow me. You can put questions and get answers-

This has already been implemented So far as delimitation is concerned, I have already introduced the Bill in the Lok Sabha. It is pending there. It will be taken up there and then it will come to this House. I am surprised when an hon. Member asked me to bring the Bill here. How can you bring a Bill from the Lok Sabha when it is under consideration there? So, we are going according to

the rules and procedures as applicable in both the Houses. It will come here when it is passed there. They were withdrawn from there. Again they had to be introduced there. There is absolutely no laxity on the part of the Government. We have done a very quick work. If there any problem arises, it is from the other political parties. Sometimes, they support the powers of the Election Commission and sometimes they oppose these. When we implement them, they say, "No, it has not been done." So, please give co-operation on this issue. We will take it up there and bring it here.

श्री जलालुद्दीन अंसारी : सभापति महोदय, मैं चाहता हूँ कि निष्पक्ष और स्वतन्त्र चुनाव हों, लेकिन इसके नाम पर बिहार में चुनाव की जो प्रक्रिया अपनाई गई, वह लगभग साढ़े तीन महीने तक चली और जिसके कारण पूरे राज्य का यातायात, कारीबार, लोगों का चलना-फिरना सब बन्द हो गया। इस तरह से अगर चुनाव की प्रक्रिया चलाई जाएगी, तो चुनाव बहुत ही कठिन होगा।

अध्यक्ष महोदय, मैं आपके माध्यम से मंत्री जी से कहना चाहता हूँ कि इलेक्शन कमीशन ने वही कहावत चरितार्थ की है "हाथी के दाँत खाने के और, दिखाने के और"। उन्होंने डेढ़ लाख रूपया फिक्स किया था, खर्च का, लेकिन इन तीन महीने में जो रिश्वटगुलिंग होती चली गई, तो उस खर्च का क्या हिसाब-किताब होगा, यह मैं मंत्री जी से जानना चाहता हूँ? यह दो दिखाने की बात हुई कि डेढ़ लाख रुपये से कम खर्च हो, हम भी इस पक्ष में हैं कि कम खर्च होना चाहिये लेकिन इन साढ़े तीन महीनों में क्या डेढ़ लाख रुपया ही खर्च उम्मीदवारों द्वारा हुआ होगा? एक तो हम चाहते हैं कि आप इस संबंध में कुछ बतायें।

दूसरा जो एक माडल कोड आफ कंडक्ट की बात आई है, व्यवहार में उसे लागू करने में चुनाव आयोग असमर्थ

रहा है। इसलिये उसको लीगल पावर होनी चाहिये और तही मायनों में वह व्यवहारिक कोड आफ कंडक्ट हो जिसकी बुनियाद पर चुनाव निष्पक्ष और स्वतंत्र ढंग से तथा कम खर्च पर हों, इस संबंध में मंत्री महोदय सदन को बतायेंगे कि वह आगे दिल लाकर या किस तरीके से इसके बारे में क्या करना चाहते हैं?

SHRI H. R. BHARDWAJ: Sir, I have already replied that it is a matter of great anxiety when any election is postponed. In a democratic set-up elections should be held whenever they are notified and no delay should be caused, and that is the Government's view. But, the Bihar problem has brought a new issue before all the political parties. I assure this House that we will get in touch with them. If any amendment is required in law, we will not be found lacking in this.

So far as election expenses are concerned, we have revised them. We never forsake the exigencies which have arisen now.

I personally feel that we can grapple with the problem if it is laid down that in no eventuality elections should be postponed except for unforeseen reasons. Then there is the problem of expenses which has already been dealt with to some extent and we can further discuss it. I assure the House that we are also concerned with this problem.

People feel a lot of difficulties when the elections are postponed one after the other. So, this point has been noted and we will discuss it with you about its solution.

SHRIMATI CHANDRIKA ABHINANDAN JAIN: Sir, the women parliamentarians and women activists have been demanding 30 per cent reservation for women in Corporations, Assemblies and Parliament. Some of the States have agreed to reserve seats in the Corporations. There is 30 per cent reservation for women in the Bombay Corporation. Even in the Panchayati...(Interruptions)...-A Vow me to speak. In the Panchayati Raj legislation, there is a provision of 30 per cent reservation for women. Is it not a fact that the male

members of the male-dominated society feel [that women are not capable of functioning as MLAs and MPs? I would like to tell the Minister as well as the Government that the time has come when we should reserve 30 per cent seats for women in Assemblies and in Parliament. It can be done through a Constitutional amendment or through election reforms. I would like to have an assurance from the hon. Minister that a statutory provision will be made to see that the seats are reserved for women in Parliament and in Assemblies.

Sir, my next question is regarding the declaration of the results of the elections. The results of the Assembly elections in Maharashtra and Gujarat were postponed by one month. I feel that the whole nation was held to ransom because of the non-declaration of results in Maharashtra. These are all unprecedented events. Somebody referred to Bihar, to the postponement of elections in Bihar. Are you going to have some norms for declaration of results and some norms for postponement of elections?

SHRI H. R. BHARDWAJ: Sir, I greatly value the suggestion of the hon. Member in relation to better treatment for women. But, you will appreciate that the question of reservation in legislative forums has to be decided somewhere else? It has nothing to do with the Representation of the People Act. For that there is already a reservation provision in the Panchayati Raj Act. In other areas where there is a demand for reservation—these issues are very important issues—the relevant Ministries will be able to devote their attention to this. But left to myself, I do not agree that we are still thinking of

* a male-dominated society. As a matter of fact, I can assure that there is a change and we would like that it is dominated by the females and it is their job to create such things.

MR. CHAIRMAN: I do not know whether the whole House will agree to that.

SHRI H. R. BHARDWAJ: Sir, it is my wishful thinking.. (Interruptions)...

It would be a great event for this country if women are given a much better deal than whatever is available today. (Interruptions). Sir, I cannot dispute it. The atmosphere in the 'house' is totally different from the atmosphere in the Home. So, Sir, the suggestion of Chand-rikaji is very valuable and the atmosphere! is changing everyday.

So far as the postponement of elections is concerned, it is a very serious issue. I have assured that we will certainly not like the postponement of elections in any part of the country wherever they can hold peacefully. We would like to discuss this issue with all the political parties and will find a solution so that in future this type of postponement of elections does not occur. Again I am submitting that the conduct of elections is a matter which we would like to discuss with every political party whether it is in Bihar or whether it is in Maharashtra or somewhere else. It is a new problem which has come up and we will certainly find some ways and means to grapple with it and solve it.

SHRIMATI JAYANTHI NATARAJAN: Sir, the Minister can initiate a Constitutional amendment... (Interruptions)... to give reservation to women... (Interruptions)... Let him initiate a constitutional amendment. He cannot say 'left to myself. Let him initiate a Constitutional amendment. He is the Law Minister. He cannot claim that he is left to himself... (Interruptions).

MR. CHAIRMAN: Please allow the Member to speak.

SHRIMATI JAYANTHI NATARAJAN: Let him initiate a Constitutional amendment.

MR. CHAIRMAN: Everybody has heard your view.

SHRI MURASOLI MARAN: Mr. Chairman, Sir, the proposed Bill... (Interruption) ...

MR. CHAIRMAN: Please allow him / have called the member to speak. Please (Interruptions)

SHRI M. A. BABY: I think the Prime Minister is willing to respond. (*Interruptions*)

MR. CHAIRMAN: Has the Minister got any thing to say? (*Interruptions*) It is beyond the scope of this question at the moment. (*Interruptions*)

SHRI SATISH AGARWAL: We have made a Constitutional amendment,

SHRI M. A. BABY: We would like to know whether the Prime Minister has any response to this.

MR. CHAIRMAN: The Prime Minister is not reacting, so I call upon the Member to speak. Please allow him to to speak. (*Interruptions*)

श्रीमती कमला सिन्हा: प्रधान-मंत्री जी से कहिए वह इस पर कुछ कहें। (व्यवधान)

श्रीमती सुषमा स्वराज: विधि मंत्री जी ने कहा है कि यह अच्छा सुझाव है। जब यह इतना अच्छा सुझाव है तो लेजिस्लेशन लेकर आइये। (व्यवधान)

श्री चतुरानन बिश्व: प्रधान मंत्री जी तमिलनाडु की एक महिला से काफी परेशान हैं इसलिए अब सोचकर जवाब देंगे।

श्रीमती सुषमा स्वराज: प्रधान मंत्री जी महिलाओं के मामले पर चुकिए नहीं रिएक्ट करिए। (व्यवधान)

MR. CHAIRMAN: Sushmaji, allow the Member to speak. Be chivalrous to the gentleman.

SHRI MURASOLI MARAN: Mr. Chairman Sir, the proposed Bill (*Interruptions*)

MR. CHAIRMAN: You cannot pressurise in this way. It is a basic question. Obviously, it has to be answered after deliberations. On the spur of the moment you cannot ask for an answer. You are asking a policy question in a supplementary. I don't think it is allowed. Please sit down. It is not done under the rules.

SHRI MURASOLI MARAN: The proposed Bill which was referred to, the hon. Minister contains some provisions which went beyond the recommendations of the Goswami Committee. For example, it tried to curb the powers of the Chief Election Commissioner regarding the identity card-J3. It was said that all the notifications issued by the Chief Election Commissioner should be in consultation with the Central Government, which is really curbing the powers of the Chief Election Commissioner and should have retrospective effect. Further, the Bill made religion, caste, language, race etc. etc. as electoral offences which are electoral offences even under the present system according to the Representation of the people's Act. There are already offences and more than anything else, it contains a draconian measure which does not go with democracy. Any citizen can go to the High Court and challenge the policy of any political party. Sir, because of this a consensus did not emerge and so, the Bill was postponed. I would like to know from the hon. Minister what the present position is. Has the Government changed its mind, will it consider the Opposition parties once again regarding consensus?

SHRI H. R. BHARDWAJ: Sir, I would like to make the information available to the hon. Member specifically. He would remember that the Committee of both Houses was constituted headed by Shri Madhavsingh Solanki, a very senior member of this House. All the political parties were represented there. We have introduced the Bill based on the recommendations of that Committee. We cannot say that there was no unanimity. It was a Committee of both Houses which had presented the report. We have acted exactly on the basis of that report. Therefore, I presume that there was unanimity.

SHRI MURASOLI MARAN: There was no unanimity.

SHRI H. R. BHARDWAJ: The report is there. I can give a copy to the hon. Member. Our Bill is, absolutely, based on the committee's recommendations.