

**THE VICE-CHAIRMAN (SHRIMATI SUSHMA SWARAJ) :** We will take up both the Bills together.

**I. The Supreme Court Judges (Conditions of Service) Amendment Bill, 1993.**

**II. The High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1993.**

**THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) :** Madam, I beg to move :

"That the Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958, as passed by the Lok Sabha, be taken into consideration."

I also beg to move :

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Service) Act, 1958, as passed by the Lok Sabha, be taken into consideration."

Both these Bills are being taken up together. The first Bill, that is, the Supreme Court Judges (Conditions of Service) Amendment Bill, 1993, seeks to provide that where a Judge of the Supreme Court does not avail himself of the official residence, he would be paid an allowance of Rs. 3,000 per month and this allowance would not be included in the computation of his income chargeable under the head "Salaries" under section 15 of the Income Tax Act, 1961. Normally all the Judges of the Supreme Court are provided with official residence befitting their status without payment of rent charges and, therefore, the question of payment of house rent allowance to Judges does not normally arise. However, a situation has arisen and may also arise in future when Judges do not avail of official residence. At times there is a delay in the vacation of the official residence by retired Judges and, therefore,

the newly appointed Judges may have to go without suitable official residence for some period of time. The present Bill is intended to meet such situations. It may be pointed out that such a provision already exists in the case of the High Court Judges (Conditions of Service) Act, 1954 to the effect that the High Court Judges not availing of official residential accommodation will receive a house rent allowance of Rs. 2,500 per month which is exempt from income-tax. The amount of house rent allowance of Rs. 3,000 per month provided in the Bill is considered reasonable considering the status of the Supreme Court Judges. The Supreme Court's strength was increased with effect from 9th May, 1986 and, therefore, the contingency of payment of house rent allowance arose since then.

About the second Bill, that is, the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1993, the position prior to November, 1986, was that a Judge of the Supreme Court was entitled to leave travel concession for himself and the members of his family for visiting his permanent residence in his home State once in a year. In addition, he was also entitled to leave travel concession for himself and the members of his family for visiting any place in India once in a block of four years in lieu of LTC to home-town in that particular year. Similarly, a Judge of a High Court was entitled to LTC for visiting his permanent residence in his home State once in a block of two years and a Judge who had been transferred from one High Court to another was entitled for LTC to his permanent residence in his home State once every year. Besides, a Judge of the High Court was also entitled to LTC to anywhere in India once in a block of four years in lieu of the facility of LTC to home town. This concession was subject to income-tax exemption.

In order to improve the conditions of service of Judges, the Judges of High Courts and the Supreme Court were al-

lowed the leave travel concession facility twice a year to any place in India including home-town with effect from November, 1986. From December, 1990, this facility was further enhanced in the case of Supreme Court Judges. They were allowed three LTCs a year. However, while liberalising leave travel concession, a corresponding relaxation under the Income-tax law was not effected. As a result, even though a more liberalised LTC concession facility has been made available to the Judges, they find it difficult to avail of the same since further liberalised benefit was not tax exempt.

The Vice-Chairman (SYED SIBTEY RAZI) in the Chair.

This matter has been under the consideration of the Government for some time. It has been felt that in the absence of tax exemption provision to cover the value of enhanced LTC, the object of providing better LTC benefits to the Judges will remain illusive. It is, therefore, necessary to exempt the monetary value of enhanced LTC from the levy of income-tax with effect from 1st April, 1986. The Bill accordingly provides for the necessary exemption.

I commend both the Bills to the House for its wholehearted support.

The questions were proposed.

श्री मूल जन्म मोणा (राजस्थान): उपसभाध्यक्ष महोदय, माननीय विधि मंत्री जी ने जो उच्चतम न्यायालय न्यायाधीश (सेवा शर्तें) संशोधन विधेयक, 1993 और उच्च न्यायालय और उच्चतम, न्यायालय न्यायाधीश (सेवा शर्तें) संशोधन विधेयक 1993 नामक बिल पेश किए हैं, इन बिलों का हमें विरोध नहीं करना चाहिए क्योंकि देश के अंदर न्याय प्रणाली है और सुप्रीम कोर्ट और उच्च न्यायालय के न्यायाधीशों को जहां कुछ वेतनमान या कुछ सुविधाएं देने की बात है, उसके लिए हमें सहर्ष ये सुविधाएं बढ़ाई जाएं, इसमें सहयोग करना चाहिए। लेकिन साथ ही मैं यह कहना चाहता हूँ कि सरकार का दृष्टिकोण भी साफ होना चाहिए

दो कर्मचारियों के अंदर दो प्रकार की नीति, दो प्रकार के निर्णय नहीं होने चाहिए। नीति एक ही होनी चाहिए। आज हम सुप्रीम कोर्ट और उच्च न्यायालय के न्यायाधीशों के लिए मकान की सुविधाओं के लिए या यात्रा की सुविधाओं के लिए जो स्वीकृति दे रहे हैं वह चाहे तीन हजार करोड़ ही क्यों न हो उस प्रकार की सुविधा पर सरकार को आपात नहीं है, कोई आर्थिक स्थिति की ओर सरकार नहीं देख रही है, लेकिन छोटे कर्मचारी भी कुछ दिन पहले डाक तार विभाग के कर्मचारियों ने 35 रुपए से 50 रुपए प्रति महीने बढ़ाने के लिए चार दिन तक हड़ताल की, वह रोड़ पर बैठने को बबबग हुए, ऐसी नीबत आई और सरकार को यह कहना पड़ा कि सरकार जहां छोटे कर्मचारियों को देने की बात आती है तो आर्थिक स्थिति की सामने पहले रखती है। इसलिए जो बिल यहां प्रस्तुत हुए हैं उनके द्वारा जहां तक सुप्रीम कोर्ट के जजों का सवाल है, न्याय प्रणाली से जुड़े हुए ये बिल है, उनका विरोध नहीं करना चाहिए। लेकिन इस के साथ ही मैं अपने कुछ सुझाव इन बिलों के बारे में देना चाहता हूँ।

एक तो मैं चाहता हूँ कि जो न्यायाधीशों की नियुक्ति होती है, उस में राजनीतिक हस्तक्षेप नहीं होना चाहिए। राजनीतिक हस्तक्षेप होने के कारण जो निष्पक्ष न्याय की भाषा की जा सकती है, वह मिलने में कुछ संशय पैदा हो सकते हैं और न्यायाधीशों की नियुक्ति के लिए केन्द्रीय सरकार को दोषी ठहराया जाए, इस बात की भी मैं मानने के लिए तैयार नहीं हूँ। इसके अतिरिक्त स्टेट के जो चीफ मिनिस्टर हैं, चीफ जस्टिस हैं, उन की राय पर और उनके पैनल के आधार पर सेंट्रल गवर्नमेंट इनको नियुक्ति देती है। स्टेट के जो उच्च न्यायालय हैं उन के अंदर जो न्यायाधीश भेजते हैं तो मैं मानता हूँ कि इस प्रकार के राजनीतिज्ञ चाहे वह मुख्य मंत्री हों, या केन्द्र सरकार के मिनिस्टर हों, उनकी राय के आधार पर न्यायाधीशों की नियुक्ति नहीं होनी चाहिए और न्यायाधीशों की नियुक्ति के लिए भ्रमण से द्रायन्यूटल बनाया जाए। मैरिट के आधार पर न्यायाधीशों की जो नियुक्ति होगी तो न्याय लेने में बादमी को यह विश्वास होगा कि उसे उचित न्याय मिल रहा है। उस में राजनीतिक हस्तक्षेप या प्रभाव नहीं होगा जिससे कि मेरे साथ ग्रन्याय हो सकता है।

इसलिए न्यायाधीशों की नियुक्ति में यह ध्यान रखने की बात है कि हस्तक्षेप न हो।

जहाँ तक उच्चतम न्यायालय और उच्च न्यायालयों के न्यायाधीशों की सुविधाओं की बात है इन को देने में हमें विरोध नहीं है लेकिन मैं कहना चाहूँगा कि जो छोटे सेशन कोर्ट हैं या डिस्ट्रिक्ट कोर्ट्स हैं, उन के न्यायाधीशों को भी सुविधाएं दी जाएं। एक बार मुझे मौका मिला था एक केस में कोर्ट में जाने का। मैं चार घंटे तक कोर्ट में बैठा रहा। मुलजिम जब तक कोर्ट में नहीं लाए तब तक घेरा साध्य नहीं हुआ जब जज से यह पूछा गया तो जज ने कहा कि उस के पास गाड़ी तक की सुविधा नहीं थी जिससे मुलजिम को बुलाया जा सके, मंगाया जा सके। छोटे स्तर के जो डिस्ट्रिक्ट जज हैं, सेशन जज हैं उनकी गाड़ी की सुविधा की दूसरी आवश्यकताएं हैं जो आवास से संबंधित हैं वे सुविधाएं भी इनके साथ जोड़ देते तो अच्छा होता। इससे यह पता लगता कि न्याय प्रणाली में एक छोटे से लेकर बड़े कर्मचारी के साथ एक जैसा मुलक किया गया। हमारी न्याय प्रणाली के ऊपर हमारे देश के लोगों को पूर्ण विश्वास है। लेकिन इस विश्वास को न्याय प्रणाली में कुछ ऐसे तत्व दूषित करने के लिए सामने आये हैं। न्यायालय का उत्प्लेवन करने के लिए इस देश में न्याय प्रणाली पर कई बार बार हुआ है। 6 दिसम्बर, को घटना हम धूलें नहीं हैं। इस देश के सबसे बड़े प्रांत के चीफ मिनिस्टर ने इस देश की सुप्रीम कोर्ट को धोखा दिया।

**श्री संघ प्रिय गौतम (उत्तर प्रदेश) :** इसका क्या रिलेवेंस है जजों की सेवा शर्तों से?

I have got an objection to it. It has no relevance to our subject-matter.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Please take your seat. (Interruptions)... You have not requested. (Interruptions)... Gautamji, you raise your point of order. You cannot just do like this. (Interruptions)...

**श्री संघ प्रिय गौतम :** क्यों सदन का समय बर्बाद हो रहा है इस तरह की बातों में। (व्यवधान)

**श्री राम नरेश यादव (उत्तर प्रदेश) :** जो सत्य बात कह रहे हैं उसे क्यों धुंझला रहे हैं। (व्यवधान)

**SHRI SANGH PRIYA GAUTAM :** We are the highest body in the country. We are discussing the matter of the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill and we have to take a decision on it. We are unnecessarily wasting the time of this august House.

**श्री मूलचन्द श्रीणा :** आप हाउस का टाइम क्यों खराब कर रहे हैं। मैं यह कह रहा था कि उच्चतम न्यायालय जिसे सुप्रीम कोर्ट कहा जाता है उसको छोड़ा दिया। देश की जनता इस को कैसे भूल सकती है। इस देश के न्यायालय के प्रति क्यों नहीं विश्वास लोगों का उठेगा। यहाँ पर बड़े आदमी के साथ न्याय दूसरा होता है और छोटे आदमी के साथ न्याय दूसरा होता है। इसलिए निष्पक्ष न्याय ही इस देश की रक्षा के लिए। इस देश के प्रजातंत्र को कायम रखने के लिए, लोकतंत्र को कायम रखने के लिए लोगों का विश्वास यहाँ की न्याय प्रणाली पर होना चाहिए। इसलिए न्याय प्रणाली के ऊपर आप को समय के अनुसार पूरा डिसकशन इस सदन के अंदर करना चाहिए। ऐसा प्रस्ताव आपकी लाना चाहिए। आज देश के अंदर दो करोड़ केसज लम्बित हैं। इतनी बड़ी संख्या लम्बित केसों की है। इनका ग्रीन निपटारा नहीं हो पा रहा। इसलिए चाहे न्यायाधीशों की संख्या क्यों न बढ़ानी पड़े, चाहे उनकी सुविधाएं क्यों न बढ़ानी पड़े, आप उनको दें लेकिन ऐसा करिये कि ज्यादा से ज्यादा और जल्दी से जल्दी इन केसों का फैसला हो सके। इसके लिए आप जो भी उपाय करें लेकिन इस काम को करिये। कुछ पैसे वाले, राजनीतिक लोग न्यायालय को अपने बल से प्रभावित करते हैं। न्यायालय के अंदर कोई केस पेश किया। उसकी चार्जशीट पुलिस द्वारा दी जाती है और उसकी अवधि 45 दिन की होती है हैं 90 दिन की अवधि में पैसे वाले लोग, राजनीतिक प्रभाव वाले लोग इस पर अपना असर डालते हैं। जो पुलिस को चार्जशीट देनी होती है उस अवधि को निकाल देते हैं जिससे केस पेश नहीं हो पाता है। ऐसी स्थिति को रोकने की कोशिश करनी चाहिए।

वैसे यह प्रशासनिक जिम्मेदारी है, जुडिशियरी की जिम्मेदारी नहीं है लेकिन फिर भी न्यायालय के लिए यह होना चाहिए कि 90 दिन की अवधि के अंदर जो चार्ज शीट दी गई है क्या वह गलत तरीके से तो रोक नहीं दी गई है इसको देखना चाहिए। मेरा यह कहना है सही न्याय मिलना चाहिए। साथ ही यह कहना चाहता हूँ कि सुलभ और सस्ता न्याय दिलाने के लिए आपको पंचायती स्तर पर, ग्राम पंचायत के स्तर पर देखना चाहिए।

गांव के लोगों को अपने साधनों के अन्दर सस्ता न्याय मिल सके, ऐसी आप व्यवस्था करें। पंचायत स्तर पर न्याय की प्रणाली लागू हो, पंचायत समिति के स्तर पर हो तो हाई कोर्ट और सुप्रीम कोर्ट के चक्कर लोगों को नहीं काटने पड़ेंगे। उनको न्याय उनके घर में, उनके नजदीक मिल सके जिससे खर्चा न बढ़े, ऐसी सुविधा आप देश के लोगों को, गरीब लोगों को और जनता को दे सकें, ऐसी व्यवस्थाएँ करें। कई बार न्यायाधीशों की नियुक्तियाँ प्रान्त के अन्दर कर दी जाती हैं। जिस प्रान्त के वे होते हैं उसी प्रान्त में उनकी नियुक्ति कर दी जाती है। उनके न्याय के अन्दर कभी कभी किसी केस में भाई-भोजावाद और रिश्तेदारवाद सामने आ जाता है। अर्थात् अपराधी रिश्तेदार की भी बेल ले ली जाती है। इसलिए मेरा यह निवेदन है कि स्टेट और जिले के अन्दर, जिला सेशन के अन्दर न्यायाधीश उस जिले में और उस स्टेट में जिसका वह रहने वाला है उस स्टेट में और उस जिले में उसकी नियुक्ति नहीं होनी चाहिए। इस पर प्रतिबन्ध हो। ऐसे लोगों की यदि कहीं नियुक्ति कर भी दी गई हो तो उनका ट्रांसफर कर दिया जाय। उनको दूसरी स्टेट और दूसरे जिले में लगा दिया जाय जिससे लोगों का न्याय प्रणाली के ऊपर विश्वास बना रहे। न्याय प्रणाली के ऊपर लोगों का जो विश्वास है वह कायम रहे। यही बात मैं कहना चाहता हूँ।

**उपसभाध्यक्ष (सैयद सिबात रज़ी) :** श्री ओ. राजगोपाल।

**श्री सच प्रिय गौतम :** महोदय, मेरा पाइन्ट आफ आर्डर है। मोशन वहाँ से मूव हुआ तो शुद्धात इधर से करली थी।

Why did Mr. Meena initiate the discussions? I would like to know it.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Gautam, you have no right to put a question like this. It is the discretion of the Chair.

**SHRI SANGH PRIYA GAUTAM :** I have raised a point of order.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** The Chair can change the serial number of speakers. I think this is not a procedural question. You must know the rules. You are a very senior Member. It is the discretion of the Chair. (Interruptions). Please take your seat. Don't cast aspersions on the Chair. Please sit down.

**SHRI O. RAJAGOPAL (Madhya Pradesh) :** Mr. Vice-Chairman, we are considering these two Bills together. The scope of both the Bills is very limited. It is not a contentious matter. Therefore, I am not opposing these Bills. However, I would like to have some clarification on certain points. I don't know how Rs. 3000 has been fixed as house rent for a Supreme Court judge in Delhi. We know that the problem of accommodation in Delhi is very acute. We may not get even a wo-room facility for Rs. 3000 in Delhi. I don't think it is a right amount. I would suggest instead of fixing a definite amount, A certain percentage of the salary should be fixed for house rent. That is my suggestion. The Minister has mentioned in these Bills that the provisions of these Bills shall come into effect from 9th May, 1986. I would like to know from the hon. Minister why this difference is there. The hon. Member was referring to the question of appointments, political appointments and the results thereof. Sir, on the question of appointments, certain norms should be there, like consultation with the Chief Justice and the Chief Minister. The Chief Justice of the concerned High Court should also be taken into account. It is not a question of mere politicisation of appointments.

Certain considerations which are very essential for selecting a person are not being followed. I would just quote what a retired Chief Justice of the Supreme Court. Shri Venkataramaiah said about this matter recently. He is reported to have said, "The judiciary in India has deteriorated in standards because such judges are appointed as are willing to be influenced by ladies, parties and by whisky bottles". This is what the former Chief Justice of India has said. Therefore, in the matter of appointment, various considerations are taken into account the results of which we are seeing now. Generally, it is accepted that standards have gone down. This has to be corrected. Now I would like to draw the attention of the hon. Minister to a major question. Even after 46 years of independence, we have not given it a deep thought whether we should continue with the judicial system that we have adopted from the Britishers—the Anglo-Saxon system that we are following now. Do we not have anything of our own? Do we have to still wear the antiquated attire and continue to address in courts as 'your lordship' and all that? Should we continue with these things in a free republic? This is a matter which we have to earnestly consider. I would urge upon the Minister to make a deep study or to appoint a committee to study our jurisprudence and the traditions followed by our ancient law-givers. Can we not learn anything from them? I am told some foreign country—Kamaji will be able to enlighten us—I think it is Philippines, where in front of their Supreme Court they have installed the statue of the first law-giver, Manu. A foreign country has considered it proper to do this. But we have not even thought it proper to look back into our own law-giving tradition. It is not a question of dress alone. But certain concepts, certain approaches and viewpoints also need to be thoroughly studied. Definitely, our ancient traditions in this regard can be made use of so as to evolve a genuine Indian judicial system. This may not be relevant while discussing the contents of this Bill. But I would still

urge upon the Minister to consider these aspects. Ours is a big country with a great tradition and it is not proper on our part to simply copy what is going on or what has happened in other countries which is only a product of their own history.

**SHRI TINDIVANAM G. VENKATRAMAN (Tamil Nadu) :** You want to copy the old system where people were oppressed.

**SHRI O. RAJAGOPAL :** When we have the time, we can discuss this in detail. These law-givers prescribed certain things according to the requirements of that particular period. I do not say that what Manu said thousands of years ago should be implemented now. This is not what I meant. My friends should understand the spirit behind it. Now, for improving the judicial system, to make it more effective, I would like to urge upon the hon. Minister to consider having a Bench of the High Court at least in the State capitals. I am just mentioning about the requirement of having Benches of the High Courts in the State capitals. Now, in Trivandrum, the capital of Kerala, there is no High Court Bench. So also in Bhopal. I think there is a need for opening a Bench of the High Court in State capitals. It will facilitate proper coordination between the judiciary and the executive....  
(Interruptions)

**PROF. SAURIN BHATTACHARYA (West Bengal) :** At Lucknow also.

**SHRI SANGH PRIYA GAUTAM :** There is a Bench at Lucknow.

**PROF. SAURIN BHATTACHARYA :** There is bench but there is no chair.

**SHRI O. RAJAGOPAL :** Everybody knows that justice delayed is justice denied. Now, lakhs of cases are pending. Some method should be evolved by which speedy disposal of cases can be brought about. Somebody mentioned about Ayodhya. I feel much of the trouble pertaining to Ayodhya could have been avoided if only

the cases filed as way back as in 1951 had been disposed of. The cases filed in 1951 have still not been disposed of. This long delay, which could have been avoided, has brought about so much of complications to the problem. So, we must think about this aspect also. With these comments, I would like to support these Bills for being passed.

**SHRI ASHOK MITRA (West Bengal) :** Sir, on behalf of my party, I support both the Bills. If the judiciary, the higher judiciary, who are the upholders of our Constitution, our laws and our Parliamentary democracy, is to survive in this country, we must see to it that it remains uncontaminated, that it remains completely detached from life's daily travails. The judiciary is also the arbiter between the people and the executive. If the people have some grievances against the executive branch of the Government, in the final resort, they have to go to the judiciary. So, the judiciary is our most prestigious asset and you must keep it that way. And, certainly, we must protect them from the travails of daily living. The mundane problems that are inflicted on other ordinary citizens should not attach to the judiciary. They should be kept away from temptation because if you arrange for a circumstance where the judiciary finds it difficult to maintain the standard of living which is in consonance with the dignity of their office, then problems are bound to arise. I do not say that the problems are not arising. They have arisen but certainly we should try to do whatever little we can do. And I would certainly, subscribe to the point of view that the provision of Rs. 3,000 per month is not enough. I feel quizzical about it. If the Government can provide 40 to 50 bungalows for Ministers, why can't they provide 25 or 30 for the members of the Supreme Court? They should receive the same priority as Cabinet Ministers and others do. And if that is not possible in the immediate period, they should certainly be allowed tax-exempt additional allowances so that they can rent houses which are in consonance with the dignity of their office. Is this sum, Rs. 3000,

enough? I have my own doubts. I wish the Minister would kindly review the matter and take care to do necessary adjustment in the emoluments of the judiciary. That is however not enough in the present unhappy circumstances to keep them away from contamination because sometimes they are contaminated, they are deliberately subverted and this subversion, I say this without any rancour in my mind, is mostly done by the Government of the day. What is the political complexion of the Government, I am not worried about. In this connection, you kindly permit me to refer to the very unfortunate situation which this Parliament had to face about a year ago. A member of the Supreme Court, a Judge of the Supreme Court, was found guilty of financial improprieties by his own peers. He was impeached in this Parliament, but he could not be sentenced.

**SHRI V. NARAYANASAMY (Andhra Pradesh) :** Sir, I am on a point of order .... (*Interruptions*) ....

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Mitra, you please take your seat. He has a point of order.

**SHRI V. NARAYANASAMY :** Sir, the honourable Member has referred to the impeachment of the Supreme Court Judge. Sir, I would like to bring to the notice of this House that he was not impeached and the motion brought forward by the Opposition was defeated in that House. Because he is a very senior Member, I am not saying anything more.... (*Interruptions*)....

**SHRI SANGH PRIYA GAUTAM :** The motion as supported by others.... (*Interruptions*)....

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Gautam, please sit down.... (*Interruptions*)....

**SHRI MENTAY PADMANABHAM (Andhra Pradesh) :** Sir, this is a fact.... (*Interruptions*).... This is a fact. The impeachment proceedings were initiated

in that House and, ultimately, it was defeated... (Interruptions)... The Honourable Member has just raised that issue and there is nothing wrong in it... (Interruptions)....

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Mentay Padmanabham, you are a very senior Member... (Interruptions).... Mr. Saurin Bhattacharya, you are also a senior Member. You see, a point of order is the right of a Member and he is exercising his right. Let him finish first. The ruling depends on the Chair. But he should exercise his right. Otherwise, there is no sense in my sitting over here... (Interruptions)...

**SHRI V. NARAYANASAMY :** Sir, I am going to conclude my point in one sentence. Sir, what the honourable Member is stating is that in spite of the impeachment motion being carried, there was no punishment. It is not correct. Therefore, I want your ruling on that... (Interruptions).

श्री संजय गोतम : लेकिन यह तो सही है कि इम्पीचमेंट का मोशन पार्लियामेंट में आया और आपने सपोर्ट किया... (व्यवधान)

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Gautam, please take your seat... (Interruptions).... Mr. Gautam, please take your seat... (Interruptions).... Mr. Mitra, you referred to some exercise which was conducted by the other House. It is the general practice of this House that we do not refer to the practices or the occurrences which are there. But, in this particular case; you were just referring to an instance. I think there should not be any objection to it. But you should try to limit yourself to this point and you should not go further. Please continue, Mr. Mitra.

**SHRI ASHOK MITRA :** Sir, I did not realise that I was straying away. I thought I was talking of a very specific matter, something of which this Parliament ought to be ashamed. I am sorry to

say this because a motion was moved for the impeachment of the Judge on the basis of the verdict... (Interruptions)...

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** No, Mr. Mitra. You are going beyond your right. I permitted you because you just referred to an incident. If you are going to discuss what was happening in the other House, then I cannot permit it... (Interruptions).... I am not permitting it... (Interruptions).... I am not permitting it... (Interruptions).... Please take your seat... (Interruptions)...

**SHRI MENTAY PADMANABHAM :** Sir, it has been discussed in the other House and it has been reported in the Press also... (Interruptions).... It is a part of history, whether it is right or wrong. So, every Member has a right to refer to it... (Interruptions)....

**SHRI ASHOK MITRA :** I stand on my right... (Interruptions).... Every Member has a right to have his say... (Interruptions).... and I also would like to humbly suggest... (Interruptions)...

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Mr. Mitra, I permitted you to some extent. But you have no right to discuss the merits of a matter which had been discussed in the other House and I just permitted you just to make a passing reference to it, the historical part of it. But I am not permitting it any further... (Interruptions)...

**SHRI ASHOK MITRA :** This Bill was discussed in the other House. Does it mean that I should not discuss it in this House? ... (Interruptions)....

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** That is not the case... (Interruptions).... Don't teach the Chair... (Interruptions)....

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Please let me handle it. Mr. Mitra, I request you to refrain from forgoing the convention of this August House. And I request you not to proceed further on this matter.

SHRI ASHOK MITRA : I refer to your request, and I would try to confine myself to the point that I was trying to make. *(Interruptions)* Please listen. A motion for impeachment was moved and it could not be passed. And I would say, please put your hand to your heart and say, why that motion could not be passed. It is not that the Government did not know the background of the Judge. Even when he was the Chief Justice....

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No. I am not permitting you, Mr. Mitra. Don't compel me to ask the Reporters that it should not go on record. I am again requesting you. And if you are not acceding to my request, I will be compelled to ask the Reporters not to record.

SHRI ASHOK MITRA : Kindly tell me how to formulate my point.....  
*(Interruptions)*

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No, no. He has just referred to it.

SHRI ASHOK MITRA : Kindly tell me how I shall formulate what I have to say.  
*(Interruptions)*

SHRI V. NARAYANASAMY : The Chair cannot tell you how you should say.

SHRI ASHOK MITRA : What shall I say ?... *(Interruptions)*

SHRI V. NARAYANASAMY : You should know how to formulate

SHRI ASHOK MITRA : Should it not be stated, you did not dare to go through the impeachment because \*\*  
*(Interruptions)*

SHRI MENTAY PADMANABHAM : There is something amiss in the House.  
*(Interruptions)*

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Mitra, please do not indulge yourself in this way.  
*(Interruptions)*

SHRI V. NARAYANASAMY : Sir, I have a submission.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : What do you want ? I have already given my ruling.

SHRI V. NARAYANASAMY : My submission is.... *(Interruptions)*

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I had already given my ruling. I do not permit any further debate on this. *(Interruptions)* Mr. Mitra, please take your seat.  
*(Interruptions)*

SHRI V. NARAYANASAMY : Sir, I have a point of order. I have another point of order.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : What is your another point of order ? You please tell me. I have already given my ruling.

SHRI V. NARAYANASAMY : Sir, I am on a different point. Sir, my point of order is that if you go through the proceedings of the House, the hon. Member from the CPM, while he was speaking, said \*\*

When we were interrupting, he was telling that. It should be expunged.  
*(Interruptions)*

SHRI MENTAY PADMANABHAM : It is not correct. The Judges should not be placed in such a position as to seek favours. He is supporting the Bill.

SHRI V. NARAYANASAMY : I am raising a point of order. It is for you, Sir, to go through the record and find out. *(Interruptions)*

\*\*Expunged as ordered by the Chair.



**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** Please take your seat. The point raised by Mr. Narayanasamy..

**SHRI V. NARAYANASAMY :** I have not concluded, Sir. He is telling "\*\*

\*\* and, therefore, you are speaking like that." You kindly go through the record whether it has been recorded. He is not only casting aspersions on me, but also on the Judges. It is a very serious matter. Therefore, Sir, I want your ruling on that.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI) :** I will check up the record and if anything has gone like that, it will be expunged.

Yes, Mr. Mitra, please proceed.

**SHRI ASHOK MITRA :** I take it that some unsavoury matters are not to be discussed in this House. I accept the judgement of the Vice-Chairman. But I still go back to my original point. And that is that it is not enough to take care of the emoluments. You should enquire at the time of his appointment what his background is, what is the quality of his mind, what is his probity. And if perchance the Executive branch of the Government is tempted to think that they could make use of a Judge in a particular manner, that means trouble for the country. This has happened in the past. I wish this does not happen in the future. That is enough. I think I have made my point.

**SHRI TINDIVANAM G. VENKATRAMAN :** I wholeheartedly support these two Bills, though it is late. This is really an essential amendment and I support it and also pay my encomiums to the Law Minister. But at the same time I would like to make certain submissions regarding the lower judiciary.

About the higher judiciary, we have been speaking in this House that it is one of the pillars of our democracy. But we are not showing that concern for the lower judiciary which is going to rot.

\*\*Expunged as ordered by the Chair.

People who are meeting the lower judiciary people can understand it and not others. So, in order to raise their level, it is better to raise their emoluments and whatever you think of the highest pedestal in the judiciary, you must also similarly think about the lower judiciary. I want to submit that in the lowest judiciary, the judges are ill-paid. There are also complaints against the lower judiciary as being almost corrupt. The payment made to them is not commensurate with the work as well as with the cost of living. Therefore, the Law Minister should also think of the lower judiciary and the district judges whose emoluments should be raised, because as a lawyer I am appearing from the trial court to higher courts and I know how they are suffering and the advantages and the disadvantages they have. Therefore, it is better that you must also think of the district judges and extend the same facilities to them as you are giving to the Supreme Court and High Court judges. You must try to see that lower court judges are also accommodated similarly because their only grievance is that they are ill-paid and their emoluments should be raised because the cost of living is going up. Therefore I make this suggestion for the lower judiciary for consideration of the Law Minister.

Another thing that I want to impress upon the Law Minister is the discrimination with regard to the age of retirement. Age of retirement for the district judges in the lower judiciary is 58 years which has been raised to 60 years; it is 62 years in the case of High Court judges and 65 years in the case of Supreme Court judges. The same person who is working as a district judge could be elevated to the High Court and from the High Court to the Supreme Court. But why should you keep a distinction between them in the matter of age of retirement? Why don't you have a uniform pattern? The person who is in the Supreme Court retires at the age of 65,

whereas the person in the lower judiciary retires at the age of 60 Brain is the same. You should not keep a distinction between them but you should judge them by their capability whether a person is capable of holding that post. Therefore, my suggestion is that the age of retirement in the judiciary should be uniform and there should be no distinction because as we say everybody is equal before the law. Why should there be a distinction between one judge and the other in the matter of retirement? There should be a uniform pattern in the matter of age of retirement. I hope the Law Minister would consider this aspect.

I heard some Member saying that you revive this Manu Smriti. We are now to forget Manu Smriti. We now do not have that type of classification in the society. Now we talk of one nation, one world and one universe. We are forgetting the old type of classification. We cannot talk of Manu Smriti at the present juncture because you know what Manu had said. He wanted that Shudras should not learn anything and if a Shudra tries to do that, you should pour lead into his ears. That is what Manu Smriti says. Do you want to go by that? No person who wants to lead a modern life and who wants to attain status in life, can think of those days. But for Periyar Anna, we would not have been sitting here. We have come to a stage where we cannot afford to have any gradation of people. There should not be any such gradations because if you would try to revive Manu Smriti, there would be very serious protests against it. I will raise the strongest objection against it. So, don't go to Manu Smriti period; try to come up. (*Interruptions*). I am placing it on record. I must correct the record. This is not the modern trend.

Sir, we should forget about casteism and other things. We should not go into it. We should not dig into the ditch. Therefore, I really feel sorry to find such observations from a Member of this august House.

**SHRI V. NARAYANASAMY** : Senior Member.

**SHRI TINDIVANAM G. VENKATRAMAN** : I must place on record my very strong objection to it. We should not go back to the Manu Smriti. We should not go back to the Manu Code. We are all one. We have no castes at all. We have no distinctions at all. In fact, we must have a law so that there is no religion at all. We must have such a law. If you are bold enough, you must go to the extent of having such a law. Thank you.

**SHRIMATI JAYANTHI NATARAJAN** (Tamil Nadu) : Manu Smriti was the greatest insult to Indian women. It should be buried fathoms deep and we should forget about it.

**SHRI VITHALRAO MADHAVRAO JADHAV** (Maharashtra) : Sir, on a point of information, Manu Smriti was not only an insult to India women; it was a great curse to the entire Indian society. He gave us the Chatur Varna system. Due to this, our society got divided. That is why Dr. Ambedkar said that Manu was the greatest rascal of Indian history. I entirely agree with him.

**SHRI S. VIDUTHALAI VIRUMBI** (Tamil Nadu) : I congratulate Mr. Jadhav for saying the truth.

**SHRI V. NARAYANASAMY** : Mr. Vice-Chairman, Sir, I support these two Bills moved by the Law Minister. Though these two Bills are very simple, the hon. Minister has given us an opportunity to discuss the conditions of service and other things in regard to the judges of the Supreme Court and High Courts.

The first amendment relates to the leave travel concession provided to the judges. It is being proposed that this should be free from income-tax. The second amendment is, if a Supreme Court Judge is not occupying Government accommodation, he should be paid a sum of Rs. 3,000 as allowance. I would like to know from the hon. Minister whether a Supreme Court

judge would be able to get an accommodation at Rs. 3,000 with all the facilities which are provided to a Supreme Court judge. I would request the hon. Minister to clarify this point. We should not be miserly in this regard.

If we want the judiciary to be impartial, if we want that justice should be rendered, if we want that quick justice should be rendered, we should provide the judges with all the facilities which are required by them. If you compare the conditions of service of judicial officers in other countries, in other developing countries what do you find? Of course, I agree with the hon. Minister that the conditions of service in India are better. But they have to be given some more facilities so that they are able to render justice quickly. I would like to point out that if we compare ourselves with the Western and other countries, the judges in India are low-paid. It is known to every body. We have increased the salary and allowances of judges some three-four years ago. However, considering today's cost of living, the hon. Minister should consider increasing further the salary and allowances of judges. Since the judges have to maintain an office at their residence also, apart from the court, we have to provide staff, telephone and other facilities at their residence. For this purpose, provision has to be made and facilities have to be provided.

In spite of the fact that facilities have been given, I feel that some more facilities have to be given so that they render speedy justice. The hon. Ministry said sometime ago that lakhs of cases were pending in the Supreme Court and High Courts. The reason is the non-filling of the vacancies in time. No doubt, during the last two years, the hon. Minister has taken care to see that the vacancies are filled up in the Supreme Court and High Courts. In spite of it, backlog is there. I would like to know from the hon. Minister as to when this backlog in the judges' vacancies in the Supreme Court and High Courts would be cleared. Sir, there is a

great demand in this House and in the other House. Sir, there is a great demand from the Members of both the Houses and also from the public for having a bench of High Court in various States. This is a burning issue. The hon. Minister had called the Chief Ministers of various States and had a discussion with them. I was also prompted to bring a Private Member's Bill. As far as my State, Pondicherry State, is concerned, there is a full justification for having a High Court bench here. At present the people from my State have to come to Madras for conducting their cases. On bench of CAT has been established there, but there is the need to establish a bench of the High Court in my State. We have a peculiar situation. We are a separate Union Territory, having a State Legislature. At the district level we have Session Courts. But for not establishing a High Court bench the reason given is that sufficient number of cases are not there. Sir, a peculiar situation is prevailing in our State which the hon. Minister must appreciate. The hon. Minister had to visit our State when the Law Ministers' Conference was held there, but unfortunately, he could not come. Sir, we are following the French law, the customary law. For administration of the French law we have special Judges, but in High Courts the Judges knowing French are not there. So, interpreters have to be brought, but how can you rely on the translated version of interpreters? So, that situation is there. I want the hon. Minister to give a categorical assurance that a High Court bench will be set up in Pondicherry.

I agree with the hon. Minister that the conditions of the Supreme Court judges have to be improved. If we want the quality of justice to improve, we should provide them all the facilities. We are also reading in newspapers that there are a lot of complaints about the Judges. This is because you are giving them low perks. Give them handsome perks so that the quality of justice could improve. With these observations, I support the Bill.

**SHRI N. GIRI PRASAD** (Andhra Pradesh) : Mr. Vice-Chairman, Sir, I support these two Bills. After all, these are all small mercies offered to the judges. Whether these Bills will solve their problems or there are any more grievances, the hon. Minister may look into them. Some of our friends have gone to the extent of saying that their perks are not in consonance with their status, work and sacrifice because some of them could have been big lawyers with a lot of income, but of course, they are deprived of all those things. In this background their status and living standard must also be kept in view.

In this connection, I would like to say two or three things. Judiciary nowadays especially at the highest level, Supreme Court, enjoys a high prestige in our country, cutting across all political opinions. Sometimes we, political parties, quarrel on many issues. We are unable to come to a consensus or arrive at a decision. All such matters are referred to the Supreme Court for arbitration. A recent case was the Mandal issue. Of course, we know, the whole society was divided from top to bottom—anti-Mandal and pro-Mandal—but the parliament could not do much. The matter had to be referred to the Supreme Court. After the Supreme Court judgement the agitation subsided to a large extent and now it has become a fact of life. Of course, this is only one analogy I am citing because the Supreme Court, the judiciary in general, the highest Court, occupies a very prestigious position. Even the most contentious issue like Ayodhya had to be referred. Though we are not happy the way it was referred, but it was referred to the Supreme Court for their opinion. I hope they would come with a proper solution to this problem. What I want to say is that we have to keep up their prestige and also help them in the discharge of their duties.

In this connection, one sorrowful or sad aspect is coming to my mind. Recently I read it in the newspapers also. The hon. Minister and the Government also were saying it many times that there were

thousands and lakhs of cases pending before the High Courts and the Supreme Court. So there is something wrong with the system. So many cases pending for so many years, not years but decades; and this system is allowing this to continue ! I don't know whether the Government has given serious thought to this problem. After all, everybody says, justice delayed is justice denied. That means we are denying justice to those people who went to the higher courts for justice. So the Government, even now, in consultation with the judiciary, at least with the highest bodies, should give serious thought to this problem and see that the number of cases pending before the courts is reduced to the minimum possible extent.

As one of these experiences go, now the Lok Adalat, a new institution, is being developed. I do not know whether that will solve the problem of reducing the backlog of cases or give justice to the people at the earliest possible time and at the cheapest cost. I think Government should also give thought to it. That's why I suggest that the Government should come forward to make some deep study of the judicial system and take necessary steps to refurbish its image, especially in relation to the people's grievances, as far as the cases are concerned.

My last point is, there are a number of demands coming up especially in my State of Andhra Pradesh. Now lawyers are on strike in the coastal districts for quite some time, may be for four months or so. Their demand is, they want a High Court Bench at Guntur or near about Guntur. They have met all the leaders including the Chief Minister. They are saying something but no positive indication is coming from any side. Nobody knows what the policy of the Supreme Court is, what the policy of the Central Government is or what the policy of the State Government is. In some States they have allowed some Benches to function and they have set up some Benches. So, in a big State like Andhra Pradesh where people are demanding it,

why can't they do it ? When I went to Guntur after I became a Rajya Sabha Member, the Bar Council in Guntur asked me to convey this to the House, but I could not do anything at that time because then the agitation was not on such a big scale. Now the agitation has caught up and it may spread. So I request the Government to give serious thought to such problems. Wherever such justified demands are there, they should come forward and remove the injustice and solve the problems so that peace will prevail. Especially an educated society like lawyers must not be left out like this. So I think Government will give consideration to such problems, not only in Guntur but wherever such problems arise. Either as a measure to reduce the backlog of cases or even to justify the aspirations of the local people, I think the Government should come forward and take some immediate and appropriate steps.

Thank you.

श्री मोहम्मद खलीलुर्रहमान (आंध्र प्रदेश) :  
जनाब वाईस-चेयरमैन साहब, मैं मिनिसटर साहब ने जो दो बिल पेश किए हैं, इन दोनों बिलों की मैं भरपूर तारीफ करता हूँ इस वजह से कि इन दोनों बिलों के जरिए जो अमेन्डमेंट लाए जा रहे हैं वह अपनी जगह यकीनन हक-बजायब हैं। बल्कि मैं तो चाहूंगा कि जहाँ तक सुप्रीम कोर्ट के जजों का ताल्लुक है, उनके मकान के किरायों का जो एलाउंस 3000 रुपए इस बिल में रखा गया है, मैं समझता हूँ कि मौजूदा हालात में ये 3000 रुपए बहुत कम है। इसमें इजाफा करना चाहिए इस वजह से कि हम देख रहे हैं कि ईवन हैदराबाद के जो कारपोरेशन के जो चेयरमैन हैं उनको हाउस रेंट अलाउंस 3000 से 3500 रुपया दिया जाता है। दिल्ली में 3000 रुपया बहुत कम है। मैं होम मिनिस्टर साहब से दरखास्त करूंगा कि इसमें इजाफा करें।

जनाब वाईस चेयरमैन साहब, इस मौके का फायदा उठाते हुए मैं एक दो बातें आपकी तबज़ह में और मिनिसटर साहब के सामने रखना चाहूंगा। अभी जैसे मेरे दोस्त गिरि प्रसाद जी जो कि मेरी स्ट्रेड से आते हैं, उन्होंने बतावना किया है कि

गुंटूर में हाई कोर्ट की एक बेंच कायम होनी चाहिए यह देरीना मतलब है कोस्टल आंध्र प्रदेश का, उसकी मैं भरपूर तारीफ करता हूँ और होम मिनिस्टर साहब से मैं दरखास्त करता हूँ कि इतिहाई संजीदगी के साथ इस पर वह गौर फरमाएं और हाई कोर्ट की एक बेंच गुंटूर में जल्द से जल्द कायम करें।

दूसरी बात मैं यह अर्ज करना चाहता हूँ कि सुप्रीम कोर्ट का जहाँ तक सवाल है, यह भी आंध्र प्रदेश का देरीना मतलब है कि सुप्रीम कोर्ट का बेंच यहाँ कायम किया जाए। इसके लिए मौजू मुकाम हैदराबाद है। मैं होम मिनिस्टर साहब से दरखास्त करूंगा कि सुप्रीम कोर्ट का बेंच हैदराबाद में कायम करने के सवाल पर संजीदगी से गौर करें ताकि आंध्र प्रदेश, कर्नाटक, केरल और तमिलनाडु के ऐडवोकेट्स और वहाँ के क्वाइट्स को इतना बड़ा सफर तय करके दिल्ली न आना पड़े और वहीं पर खुद साउथ इंडिया में, हैदराबाद में जो तकरीबन सेंटर पड़ता है सभी स्टेट्स का, वहाँ पर कायम करने से सहुलियत मिल सके।

तीसरी बात यह है कि इस समय केसेज की पेडेंसी मुख्तलिफ हाई कोर्ट्स में और सुप्रीम कोर्ट में काफी बढ़ गई है। ज़रूरत इस बात की है कि इन केसेज की पेडेंसी को जल्द से जल्द खत्म किया जाए। उस के लिए मौजूदा जो स्टैंडिंग सुप्रीम कोर्ट जजों की और हाई कोर्ट जजों की है, वह नाकाफी है। उस स्टैंडिंग को बढ़ाना चाहिए ताकि पेडेंसी खत्म हो जाए और जैसा अभी कहा गया है "जस्टिस डिलेड इज जस्टिस डिनाइड", लिहाजा इससे जल्दी से जल्दी मुकदमे का फैसला वह पा सकें।

चौथा और आखिरी सुझाव मेरा यह है कि हम यह देख रहे हैं कि जो लोवर जूडिशियरी है, जो छोटी अदालतें हैं, जैसे डिस्ट्रिक्ट जज है, सर्वोडिनेट जज है, मजिस्ट्रेट है, इनको सबसे कंडीशंस का भी ब्याल रखा जाए क्योंकि उनको जो सक्कि कंडीशंस हैं, इनको जो तनख्वाह मिलती है वह इतिहाई मुभर है। लिहाजा ज़रूरत इस बात की है कि जब हम उनसे न्याय देने का काम कराते हैं तो जाहिर है कि उन के जहनों पर किसी किस्म का बोझ न हो और मानसिक परेशानी से उन्हें मुक्तिता नहीं रखना चाहिए। उनकी तनख्वाहों और सबसे कंडीशंस, ऐलाउंस आदि मुनासिब होने चाहिए।

یہی بات باتوں میں جیٹو کے سامنے  
رکھنا چاہتا ہوں اور میری پوری توقع ہے کہ وہ  
ہیٹنگ سبجیکٹ کے ساتھ ان پر غور کریں۔

†[شری محمد خلیل الرحمن (آندھرا  
پردیش): جناب وائس چیرمین صاحب۔  
لائسنسٹر صاحب نے جو دو بل پیش  
کئے ہیں ان دونوں بلوں کی میں بھر  
پور تائید کرتا ہوں اس وجہ سے کہ  
ان دونوں بلوں کے ذریعہ جوائنٹمنٹ  
لائسنس جاری ہیں وہ اپنی جگہ یقیناً حق  
بجانب ہیں۔ بلکہ میں تو کہوں گا کہ  
جہاں تک سپریم کورٹ کے ججوں کا  
تعلق ہے ان کے مکان کے کرایوں کا جو  
الاؤنس ۳۰۰۰۰ روپیہ اس بل  
میں رکھا گیا ہے۔ میں سمجھتا  
ہوں کہ موجودہ حالات میں یہ تین  
ہزار روپیہ بہت کم ہیں۔ اس میں  
اضافہ کرنا چاہئے۔ اس وجہ سے  
کہ ہم دیکھ رہے ہیں کہ ایون  
جدر آباد کے جو کارپوریشن کے  
جو چیرمین ہیں انکو ہاؤس رینٹ  
الاؤنس ۳۰۰۰۰ سے ۳۵۰۰۰ روپیہ تک  
دیا جاتا ہے۔ دلی میں ۳۰۰۰۰ روپیہ  
روپیہ بہت کم ہے میں ہوم منسٹر  
صاحب سے درخواست کروں گا کہ اس  
میں اضافہ کریں۔

جناب وائس چیرمین صاحب۔ اس  
سوتے کا فائدہ اٹھاتے ہوئے میں ایک  
دو باتیں آپکی توجہ میں اور منسٹر  
صاحب کے سامنے رکھنا چاہوں گا  
ابھی جسے میرے دوست گری پرساد  
جی جو کہ میرے اسٹیٹ سے آئے ہیں

انہوں نے مطالبہ کیا ہے کہ گھٹور میں  
ہائی کورٹ کی ایک بینچ قائم ہونی  
چاہئے۔ یہ دیرینہ مطالبہ ہے کونسل  
آندھرا پردیش کا اس کی میں بھر پور  
تائید کرتا ہوں اور ہوم منسٹر صاحب  
سے میں درخواست کرتا ہوں کہ  
انتہائی سنجیدگی کے ساتھ اس پر وہ  
غور فرمائیں اور ہائی کورٹ کی ایک  
بینچ گھٹور میں جلد سے جلد قائم  
کریں۔

دوسری بات میں یہ عرض کرنا  
چاہتا ہوں کہ سپریم کورٹ کا جہاں  
تک سوال ہے یہ بھی آندھرا پردیش کا  
دیرینہ مطالبہ ہے کہ سپریم کورٹ کا  
بینچ وہاں قائم کیا جائے اس کے لئے  
موضوع مقام حیدر آباد ہے میں ہوم  
منسٹر صاحب سے درخواست کروں گا  
کہ سپریم کورٹ کا بینچ حیدر آباد  
میں قائم کرنے کے سوال پر سنجیدگی  
سے غور کریں تاکہ آندھرا پردیش  
کو ناٹک۔ کیل اور تامل ناڈو کے  
ایڈووکیٹس اور وہاں کے کلائنٹس کو  
اتنا بڑا سفر طے کر کے دلی نہ آنا  
پڑے اور وہیں پر خود ساؤتھ انڈیا  
میں حیدر آباد میں جو تقریباً سینٹر  
پڑتا ہے سبھی اسٹیٹس کا وہاں پر قائم  
کرنے سے سہولت مل سکے۔

تیسری بات یہ ہے کہ اس سٹے  
کیسز کی پینڈنسی مختلف ہائی  
کورٹس میں اور سپریم کورٹ میں  
کافی بڑھ گئی ہے۔ ضرورت اس بات  
کی ہے کہ ان کیسز کی پینڈنسی کو

جلد سے جلد ختم کیا جائے۔ اسکیلے موجودہ جو اسٹرنٹھ سپریم کورٹ کے ججوں کی ہے وہ ناکافی ہے۔ اس اسٹرنٹھ کو بڑھا نا چاہئے تاکہ پینڈنسی ختم ہو جائے اور جیسا ابھی کہا گیا ہے ”جسٹس ڈیلڈ از جسٹس ڈنالیڈ“ لہذا اس سے جلدی سے جلدی مقدمہ کا فیصلہ وہ پا سکیں۔

چوتھا اور آخری سبھاؤ میرا یہ ہے کہ ہم یہ دیکھ رہے ہیں کہ جو لوور جوڈیشیری ہے۔ جو چھوٹی عدالتیں ہیں جیسے ڈسٹرکٹ جج ہیں۔ سب آرڈینٹ جج ہیں۔ نصف ججسٹریٹ ہیں انکی سروس کنڈیشنس کا بھی خیال رکھا جائے کیونکہ انکی جو سروس کنڈیشنس ہیں انکو جو تنخواہ ملتی ہے وہ انتہائی پورے لہذا ضرورت اس بات کی ہے کہ جب ہم ان سے نیا نئے دینے کا کام کراتے ہیں تو ظاہر ہے کہ انکے ذہنوں پر کسی قسم کا بوجھ نہ ہو اور مانسک پریشانی سے انہیں مبتلا نہیں رکھنا چاہئے۔ انکی تنخواہوں اور سروس کنڈیشنس۔ الاؤنسز آدی مناسب ہونے چاہئیں۔

یہی چند باتیں میں لائسنسٹر صاحب کے سامنے رکھنا چاہتا ہوں اور میری پوری توقع ہے کہ وہ انتہائی سنجیدگی کے ساتھ اس پر غور کریں گے۔

بیملا داس جی (گجرات) :  
مہودے، میں اس کے ساتھ ہی ساتھ یہ کہنا چاہتی ہوں کہ ہمارے سماج میں نیا بہت ملنا ہے۔ نیا ملنے میں بہت دیر لگتی ہے اور جسے سب ممبروں

نے کہا ”جڈ اس ڈیلڈ از جسٹس ڈنالیڈ“ اس سے پہلے میں دو باتیں کہنا چاہتی ہوں کہ اگر سہمیہ کورٹ کی تین چار برانچیں ساؤتھن انڈیا، ویسٹرن انڈیا اور ایسٹرن انڈیا میں بنائی جائیں اور اس طرح سے سٹے میں ہائی کورٹ کی برانچ بنائی جائے گی تو اس سے کام کا دباؤ کم ہو جائے گا۔ جو کس بڑ رہے ہیں انہیں بھی کامی ہو جائے گی اور جڈ سے نیا مل سکتا ہے۔

اس کے علاوہ میں دوسری بات کہنا چاہتی ہوں کہ ہماری جو महिला کے کس کورٹ میں جاتے ہیں وہ زیادہ تر پٹنپلی کے بچ کے یا سسٹریل کے ساتھ ان کے بچوں کے پٹن کو نکال دیا گیا ہو تو، مینٹنس کے لیے دی جائے، پٹن کے لیے دی جائے، اس طرح کے ہوتے ہیں۔ اسے کسے بھی کس سال تک چلتے رہتے ہیں۔ महिला کو نیا نہیں مل پاتا۔ اس میں بہت سبب لگتا ہے۔ اگر महिला کورٹ بچ کی جائے تو اس سے महिलाؤں کو بڑی راحت ملے گی۔ اگر महिला کورٹ میں महिला نیا بچ کو رکھا جائے تو یہ اور بھی اچھا رہے گا کیونکہ ایک महिला، महिला کو اچھی طرح سمجھ سکتی ہے۔ بچ ہی کیا دیکھتے ہیں کہ نیا کرنے والا بھی مہم ہے، اس کی جانچ کرنے والا بھی مہم ہے اور وہ نیا دینے والا بھی مہم ہے۔ یہ مہم ڈومینٹ سوسائٹی ہے۔ مہم کے پاس سب پاور ہے تو महिलाؤں کو نیا کے لیے مل سکتا ہے۔ اس چیز کو آپ سب ممبر اچھی طرح سے سمجھ سکتے ہیں۔ میرا یہ خیال ہے کہ اگر महिला نیا بچ رکھی جائے گی اس سے महिलाؤں کو نیا ملنے میں زیادہ سبب رہے گی۔ ایک اور بات ہے۔ کبھی-کبھی سٹے میں महिलाؤں کو اپنے کس کے لیے کس لنگل سبب ملتی ہے لیکن महिला اکیلے کورٹ میں جا نہیں سکتی ہے۔ اس کے ساتھ کس ہونا چاہیے۔ اس کے ساتھ جو اپنے والے لنگل ہیں وہ بھی کس نہ کس کام بچا کرتے ہیں۔ جب ایک کے ساتھ ایک اسے کس چلتے ہیں، اور کبھی کبھی تو تین-تین، چار-چار سال تک کس چلتے ہیں تو اس میں اپنے-اپنے میں جو دیکھتے ہوتی ہیں اس سے بھی महिलाؤں کو بہت تکلیف ہوتی ہے۔ ان سب باتوں کو سبب کر اگر महिलाؤں کے لیے سبب اگر مل جائے تو اس سے महिलाؤں کو نیا ملنے کی سبب زیادہ رہے گی۔ اس کے ساتھ جو نیا بچ اور نیا

के केंद्रों होते हैं तो उती समय महिलाओं को प्रोटेक्शन की जरूरत होती है तो इसका भी जोड़ा सा विचार इसमें करना जरूरी है। मेरी राय है कि न्याय जल्दी मिले, सस्ता मिले और महिलाओं को इसमें जोड़ा जाए। ये मेरे कुछ सुझाव हैं जिन्हें मैं आपके सोचने के लिए रखती हूँ।

**PROF. SAURIN BHATTACHARYA :**  
Like everyone else I would also lend my support to the provisions of the Bill, though I am at a loss actually what is the reason for the Bill regarding the Supreme Court Judges. The provision (1A) says :

"Where a Judge does not avail himself of the use of an official residence, he may be paid every month an allowance of three thousand rupees."

I have no objection to Rs. 3,000 and I agree with Mr. O. Rajagopal and what Dr. Mitra also said. Nowadays Rs. 3,000 would not get a palace to the Supreme Court Judges. The Finance Minister might take umbrage, but if there is any concrete proposal for increasing it, I would say this amount is rather too little. But the main question is this. In this Bill it has been stated that on 9th of May, 1986, the number of judges in the Supreme Court was increased. As a result it was not possible to provide accommodation to all of them at the same time. Therefore, the question of house rent allowance did arise. So it was incapacity of the Government. It is not that the Supreme Court Judges did not avail themselves of the facilities of free accommodation. So it should have been, perhaps, made clear.

There is another thing where it has been said that in a case the Supreme Court had passed orders to the effect that where official residence is not provided to a Judge, he may be paid an allowance of Rs. 3000 per month which should be exempt from income-tax. There is the question of the Supreme Court order as to when it was passed. This has not been mentioned in the Statement of Objects

and Reasons. In the Financial Memorandum it has been stated that it is not possible to say as to how many Judges would not be provided with free accommodation. Therefore, per capita accounting is possible. It is very simple arithmetic. But total funding involvement cannot be made in respect of item (b) of the Financial Memorandum. It is something which should be more concrete and not like this. This contradiction in the Bill and the delay in bringing the Bill could have been avoided. This Bill was signed by the then Law Minister, Shri Vijaya Bhaskar Reddy, who is happily or unhappily—I do not know—presiding over as the Chief Minister of Andhra Pradesh for quite some time now. Now it has fallen...

**SHRIMATI JAYANTHI NATARAJAN :**  
Earlier the BJP stalled the business of the Honble. Now other Opposition parties are stalling the business of the House.... (*Interruptions*)....

**PROF. SAURIN BHATTACHARYA :**  
Then you come in the Opposition and stop it further.... (*Interruptions*)....

**SHRI VISHVJIT P. SINGH :** Mr. Vice-Chairman, I must say that the hon. Member is giving the most constructive suggestion. Of course, he is true to his party. He is true to his ideology.... (*Interruptions*)....

**PROF. SAURIN BHATTACHARYA :**  
Everybody is true to his own party and ideology. I do not know whether Mr. Vishvjit P. Singh is something else.

The question is that the Government should have been a bit more expeditious and a bit more careful.

A few other points were raised. I will very briefly refer to the question of *Manu* which was raised by Mr. Rajagopal. We are approaching the 21st Century. We exactly do not know the age of *Manu*. But *Manu* existed 2000 years before in this country. This *Manu Smriti* is something which cannot be accepted by any reasonable or rational person nowadays.



**SHRI O. RAJAGOPAL :** Sir, an impression is being sought to be made from my statement as if I have pleaded that *Manu Smriti* must be brought back and implemented. I have never said that... (Interruptions)....

**PROF. SAURIN BHATTACHARYA :** He would have done better if he had suggested drafting of a new law separate from the Anglo-Saxon law and not to harp on *Manu*.

There is just another point. While we support that the judiciary should enjoy a reasonable comfort, at the same time, a question has arisen that everything is not quite okay in the field or domain of the judiciary. All are not like Caesar's wife who was above all suspicion. This issue, this point has brought the setting up of a full Constitution Bench in the High Court of Calcutta. We may try to wish it away. But perhaps it is only proper to wish it away and the judiciary should devote itself to these issues as it did once in case of one judge. They should do this introspection in respect of others also. Thank you.

**SHRI RAM JETHMALANI (Karnataka) :** Thank you Mr. Vice-Chairman, for giving me time to share my views with the House. Sir, I must say that the hon. Minister of State for Law, of late, is becoming less and less controversial and more and more beneficial. It is no wonder that within a very short space of about ten days, on three occasions, he has qualified himself for not only my support but also a word of compliment. I am again happy to compliment him for bringing these two measures. They were long overdue and they are again the reflection of a great need of our society. Sir, the fact that the Judges will get Rs. 3,000 if they do not avail of their accommodation is a welcome provision. But even if you had raised it to Rs. 10,000/- or Rs. 30,000/-, I would have still supported your measure because I believe that there are two principles which must be borne in mind and that is why I wanted to take your two,

three minutes to share this thought with you. Number one is, you must have a proper understanding of the principle on which the Judges' emoluments and perks should be formulated. The first principle is that the life of a Judge should be made so comfortable that he should not seek any temptation or he should not look for any favour from any litigant who appears before him or a potential litigant who might appear before him in future. The second principle is, though the judiciary is partially recruited from the lower rung of the judiciary itself, yet the major recruiting ground for good and competent judges is successful practitioners at the Bar and unfortunately there is such a great disparity today between the emoluments of a Judge and a successful practising lawyer that there is a very little attraction for successful lawyers to give up their practice and get on to the Bench. Therefore, Sir, at least, those who are willing to make that much sacrifice and give up their lucrative practice and become Judges, should at least not be compelled to lead a life which is a tremendous departure from their life style to which they are used to. These are the two principles which you must bear in mind. Once you bear these two principles in mind, there arises the point which was raised by Mr. Venkatraman that you must think more of the subordinate judiciary than you think of the High Court Judges and the Supreme Court Judges. It is the subordinate Judge, the subordinate Magistrate who comes in contact with the public and it is he who represents the institution of justice to the common man. Today, there is unfortunately a tremendous amount of corruption that has percolated into the lower rungs of the judiciary. But I am not suggesting that corruption and poverty are necessarily invariable concomitants. On the contrary, I always think that those people who have more wealth than they can consume, more wealth than even their two generations can consume, they tend to be a little more corrupt because unrestricted pursuit of money is a morbid disease. But on the other hand there is some truth in this that life of a Judge should be so comfort-

fortable that he does not look for any favour and I don't think that the life of the subordinate Judges is really taken care of properly. I am conscious of the fact that there has been a good bit of change in the emoluments of the subordinate judiciary in a couple of years but it is not enough. The vast gulf between the Supreme Court Judge and the subordinate Judge, who ultimately, as I said, represents the common man, needs to be bridged. If the common man loses the confidence in the administration of justice or in the institution of Judges, then it is not good for the rule of law and it is not good for the country. So you must take into account the suggestion which Mr. Venkatraman has made, try and improve the conditions of existing subordinate Judges. I have seen in the morning a subordinate Judge. The poor fellow cannot afford a car. He was standing in a bus queue and while he was standing there, drove past in a very luxurious car was the accused who was to appear before him after ten minutes in the court. This kind of a thing is scandalous. Every subordinate Judge should be prevented from standing in a queue. This kind of a thing is a scandal. I mean, every subordinate judge, the poor fellow, should be prevented from standing in a queue. I don't mean that everybody should begin to avoid standing in a queue, Sir. I like to go standing in a queue some time and enjoy a bus-ride. That is like neither here nor there. I am not compelled to but the poor subordinate judge is compelled. I have seen what happened in the Gujarat case; the way the poor magistrate was treated by the police officers, just because he could not even prove that he was a magistrate. He did not look it. He could not, by the kind of comports that he enjoyed, even establish his identity as a judge. This kind of things are a scandal. I think care should be taken of him. Sir, I share this with Mr. Rajagopal. I do not believe that he suggested that you should enact Manusmriti but, Sir, so far as Manu is concerned, I must tell you that today there is a controversy whether he was a

law-giver at all. There is a school of thought which believes that he was only a scribe. There is another school of law which says he only compiled things which some other people had already compiled. And, Sir, as a student of Manusmriti I can myself almost subscribe to the view that he really was a person who brought together into one small book the laws which have been compiled by other evil-minded people. In the argument before the Supreme Court on the Mandal Commission Report, incidentally, Sir, opposition came more from lawyers of the other side, but we had to point out that they were not creating, by reservations, a system of economic rehabilitation but they were providing compensation for persistent historic injustice. Sir, we had to quote Manu to show how Manu had brought damage to the genetic endowment of the Shudras and the Scheduled Castes. So, Sir, nobody suggests that they should erect poor Manu's statue now outside our court. Nobody is suggesting they should enact Manusmriti but what he has been saying is that there are other courts in other countries which are honouring some of our law-givers; there is no reason why we should not honour our real law-givers. Now, you select the real law-givers and please give them prominence and prestige.

Thank you, Sir, for giving me an opportunity to speak.

श्री सत्य प्रकाश भालवीय : उपसभाध्यक्ष महोदय विधि मंत्री जी ने जो उच्चतम न्यायालय न्यायाधीश (सेवा शर्तें) संशोधन विधेयक, 1993 और उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (सेवा शर्तें) संशोधन विधेयक, 1993 प्रस्तुत किये हैं मैं इन दोनों का समर्थन करता हूँ। न्यायाधीश चाहे सर्वोच्च न्यायालय के हों या राज्यों के न्यायालयों या निचली अदालतों के हों सब को ऐसी सुविधाएँ मिलनी चाहिये जिनकी ओर अभी श्री राम जेटमलानी जी ने ध्यान आकर्षित किया कि वह बिना किसी दिक्कत के अपना और अपने परिवार का जीवन व्यतीत कर सकें ? मैं केवल कुछ बातों की ओर ध्यान आकर्षित करना चाहता हूँ क्योंकि यहां पर चर्चा हुई कि ग्राम आदमी

को सस्ता न्याय मिलना चाहिये, जल्दी मिलना चाहिये आज सरकार का भी नारा है जस्टिस एट डोर स्टेप। मेरे पास इसी सदन का 9 दिसम्बर का इलाहाबाद हाई कोर्ट का आर्काइव है। सवाल था श्री त्रिलोकी नाथ चतुर्वेदी और डा. मुरली मनोहर जार्ज का। अतिरिक्त प्रश्न संख्या 995 में उनके द्वारा यह पूछा गया था कि इलाहाबाद हाई कोर्ट में दीवानी मामलों और फौजदारी मामलों की संख्या कितनी है और इनकी क्या स्थिति है और कितने केसेज इस समय वहां पर लम्बित है। 30 जून, 1993 की स्थिति के अनुसार सिविल केसेज की संख्या 584597 और क्रिमिनल केसेज की संख्या 111283 है। इस प्रकार से 645880 केसेज 30 जून को केवल इलाहाबाद उच्च न्यायालय में विचाराधीन थे। कुछ केसेज तो 15-15, 20-20 साल से लम्बित पड़े हैं। इसके अतिरिक्त इलाहाबाद हाई कोर्ट में इस समय 8 स्थायी न्यायाधीशों के पद रिक्त हैं। पहला पद रिक्त हुआ 2 जुलाई, 1992 को, दूसरा 15 जुलाई, 1992 को, तीसरा 13 नवम्बर, 1992 को, चौथा 13 नवम्बर, 1992 को, पांचवा 9 जनवरी, 1993 को, फिर 13 मार्च, 1993 को, फिर 7 अक्टूबर, 1993 को, 13 अक्टूबर, 1993 और आठवां पद रिक्त हुआ है 1 नवम्बर, 1993 को। इसके अतिरिक्त सरकार ने वहां पर सात अडिशनल जजेज के पदों का भी अनुमोदन किया है। हाई कोर्ट के जजेज की नियुक्ति की प्रक्रिया भी ऐसी है जिसमें कुछ बदलाव की जरूरत है। इस प्रक्रिया के चलते कमी-कमी नियुक्ति में बहुत समय लग जाता है क्योंकि संबंधित उच्च न्यायालय के मुख्य न्यायाधीश की सलाह ली जाती है, मुख्य मंत्री भी जीव में आते हैं। फिर यहां पर केन्द्रीय विधि मंत्री आते हैं, वहां पर प्रधान मंत्री जी और सर्वोच्च न्यायालय के मुख्य न्यायाधीश आते हैं। तो इसकी प्रक्रिया ऐसी होनी चाहिए कि कम से कम जल्दी से जल्दी जो रिक्त पद हैं उनमें नियुक्ति कर दी जाए और उन पदों को भर दिया जाए।

मैं इस ओर भी ध्यान आकर्षित करना चाहता हूँ कि सर्वोच्च न्यायालय ने एक नुकदम में सरकार को चाहे सलाह दी थी या डाइरेक्शन दिया था कि एक आल इंडिया जुडीशियल सर्विस बनानी चाहिए। सर्वोच्च न्यायालय ने जो फैसला दिया, सरकार को जो सलाह दी थी उसके बाद सरकार

ने कहा था कि उस पर हम विचार भी कर रहे हैं तो मैं विधि मंत्री जी से जानना चाहता हूँ कि आल इंडिया जुडीशियल सर्विस बनाने के संबंध में सरकार का क्या विचार है और क्या प्रतिक्रिया है।

इसके अतिरिक्त मैं एक बहुत गंभीर विषय की ओर ध्यान आकर्षित करना चाहता हूँ जो न्यायाधीशों की नियुक्ति से संबंधित है क्योंकि एक राज्य में किसी न्यायाधीश की नियुक्ति हुई। ला से कट्टी ये शायद। उसके बाद जैसा कि मैंने निवेदन किया, कितनी भी न्यायाधीश की नियुक्ति में मुख्य मंत्री, यहां के विधि मंत्री, प्रधान मंत्री और सर्वोच्च न्यायालय के मुख्य न्यायाधीश तक का उसमें हस्तक्षेप होता है। लेकिन उनके ऊपर कुछ अप्रत्यक्ष के आरोप थे। उनकी नियुक्ति का वारंट राष्ट्रपति जी के यहां से जारी हो गया और उसके बाद चूंकि संविधान में इस बात का प्रावधान है कि किसी भी जज की जब नियुक्ति होती है तब अपना पद ग्रहण करने से पहले संविधान के अनुच्छेद 219 के अन्तर्गत उनको शपथ ग्रहण करने पड़ती है राज्यपाल द्वारा या राज्यपाल जिनकी नियुक्ति करता है उनके द्वारा। उनकी नियुक्ति हो गयी और उसके बाद कोई व्यक्ति सुप्रीम कोर्ट में गया, सुप्रीम कोर्ट में उसने पिटीशन दाखिल की। सुप्रीम कोर्ट ने फैसला किया कि उनको शपथ दिलाने से रोका जाए। केवल मैं उसका उद्धरण करना चाहता हूँ जो रिपोर्ट है ए.आई.आर. 1992 सुप्रीम कोर्ट 1213 उसमें सुप्रीम कोर्ट ने यह लिखा है :

"The court finds the appointee unfit to hold the office and directed 'the Union of India and other respondents present before us not to administer the oath or affirmation under article 219 of the Constitution of India to...' so and so.

मैं नाम नहीं पढ़ता। मेरा निवेदन यह है कि एक हाई कोर्ट के जज की नियुक्ति हो जाती है, राष्ट्रपति के यहां से वारंट जारी हो जाता है उनकी नियुक्ति का तो कम से कम इस प्रकार की जो प्रक्रिया है उसमें बदलाव, सुधार किया जाए। इन्हीं शब्दों के साथ आप जो विषयक जाये है, इन दोनों का मैं समर्थन करता हूँ।

**SHRI ASHIS SEN** (West Bengal) : Sir...

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI)** : I am sorry. We are short of time. We don't have time. We have already discussed this matter at length.

**SHRI H. R. BHARDWAJ** : Sir, I am very grateful to the House for its unanimous support for passing these two small provisions, namely, the tax-free LTC to the Judges and an allowance of Rs. 3,000 in lieu of the bungalow to the Supreme Court Judges. Whenever I bring such measures in support of service conditions of the Judges I always get support from all sections of the House, from all parties, irrespective of their thinking about the judicial system. One thing that I would like to place before the House is that we are doing a serious exercise for improving the legal and judicial system in the country. I am not going to accept that our judiciary is not one of the finest judiciaries in the world. Our judiciary has a very big name throughout the world for its independence and integrity. Similarly, our Bar has produced outstanding lawyers and judges. So, they are the foundation of our democracy and rule of law and we are proud of them. There is actually a need to do more in this direction because the cases are every day increasing in the courts and the problems of the litigants are also increasing in respect of the expenses involved and in respect of the delay which occurs in the disposal of the cases. These are problems which we are concerned with. After the Malimath Committee gave its finding, we have discussed it recently with the Law Ministers from all States in the country. After the report was discussed, we placed it before the hon. the Chief Justice of India because any change in the procedure or any change in the rules of the court or any suggestion which has to be passed on to the members of the Bar must be done before any decision is taken.

I am very happy that the judiciary did respond to the resolution which we had taken before it. They gave their suggestions. They constituted a committee of judges. We had a very useful discussion with the judiciary. Later on I requested the Prime Minister to convene a meeting of all the Chief Ministers and Chief Justices from all the States. I am very happy to inform the House that we have taken steps to see that these arrears are reduced. About 20 to 22 points have been formulated. We are forming a monitoring cell to see that these points are acted upon. It is not that we are not conscious of the problems of litigants.

I am very happy that one of the senior Members and a senior advocate of this country has stressed for strengthening the lower judiciary. I have practised for almost 15 years in the lower courts. I know that the condition of the litigants throughout the country has deteriorated beyond repair. They have no proper court rooms. They have no proper bar rooms. They have no proper facilities for litigants. When I was a Planning Minister, I took up this matter with the hon. Finance Minister. He was kind enough to listen to me. He agreed that this particular subordinate judiciary problem should be grappled forthwith. He agreed to consider this judicial infrastructure as one of the Centrally-sponsored schemes. Now justice is a planned subject in respect of judicial infrastructure. So we have made a provision of more than thousand crores of rupees for improving the infrastructure in the subordinate judiciary through out the country on a fifty : fifty basis. Recently, the Supreme Court also gave a judgement in the all India Judges' Association case. They have sanctioned transport allowance. They have sanctioned library allowance and they have also increased the age of retirement of subordinate judges. This is a continuing process in which the help of the Bar, the help of the State Government is necessary. The members of the Bar, who practise before a court, can describe the condition of the subordinate

judiciary must better. I am very happy that today the entire House has supported this noble cause. It is they who serve at the grass-roots. If they are a frustrated lot, then we cannot feel that the higher judiciary will be much more effective. So, I am very thankful to all the Members for stressing on these points. On some other occasion we will discuss this whole thing on a separate motion or a separate resolution, whenever this House thinks it proper.

I am particularly thankful to the hon. Members who pointed out that only people of integrity should be appointed as judges. This is the concern of all of us. After the nine-judges' judgement, a scheme has been evolved by which this system has been strengthened. We are following a system whereby the recommendation which comes from a Chief Justice has to be in consultation with two senior judges. Similarly, in the Supreme Court also they are following the same method of consulting two senior judges. We have a time-bound programme. In the Memorandum of Procedure, which we are finalising, the procedure is that the recommendation must come four months before a vacancy occurs. Every Constitutional functionary, who is given the charge of consultation and with whom we have to consult, has to give his recommendation within six weeks. This whole exercise should be over within four months. I think this delay in appointments also has been taken care of. There is one very strong demand in the country regarding Benches. I am not in a position to give you any assurance now because this is a very delicate matter. We have to consult all the Chief Ministers and Chief Justices of High Courts. When we are not able to maintain even our lower courts properly, how are we going to maintain all these Benches? The Chief Ministers have to provide the infrastructure. Merely asking for a Bench and saying that a Bench should be there will not serve the purpose. So we must

get ready for a dialogue to see whether we can have High Court Benches at several places in a State.

The High Court is a court of records and quality of justice cannot be allowed to be distributed at various places. But none-the-less, the present status is that we are keeping in mind these requests received from various States for a final decision which will be applicable to the whole country. As a policy, the judiciary has to agree. Particularly, the Chief Justice of a High Court has to be taken into confidence. He must agree to have a bench of the principal court away from the principal seat. So we have to persuade them. The attitude of the lawyers—merely because a bench has not been given, they go on strike—is not very much appreciable. I have noted down their concern. They think that a particular place is important and they want to have a bench there. They should have a dialogue with the Chief Minister and the Chief Justice of that State. If it is agreed to in the entire country, then they can also be given one. Supposing a Chief Justice decides that he does not want to have a bench, then how can you give a bench against his wishes? They say one thing and the next day they go on strike. Senior Members will appreciate that going on strike does not solve this problem. Strikes only make courts non-functional and if the courts are closed, who thrives? The criminals thrive. Courts must remain open. Our duty as lawyers and judges is to see that courts are made accessible day and night. Anybody who is aggrieved should be able to get a redressal. Lawyers should not become party to the closure of courts, unless, of course, there is a threat to the Constitution or judicial independence.

SHRI MOTURU HANUMANTHA RAO (Andhra Pradesh) : They get disgusted. What to do? The Government was not moving at all.

**SHRI H. R. BHARDWAJ :** The Government is moving... (interruptions)...

**SHRI MOTURU HANUMANTHA RAO :** There was a gentleman's agreement with even before the formation of Andhra Pradesh that a bench would be created in Vijayawada and Guntur areas. But you have not obliged us for so many years.

**SHRI H. R. BHARDWAJ :** I am not disputing the agreement. If you say there was an agreement, I cannot contradict it. But the question is that this should be discussed with the person with whom the agreement was made. Merely resorting to strike is no solution. This is my most humble submission to you. What I am saying is that on an issue like this where you need to make improvements in the judicial system or the legal system, you have to have a continuous dialogue. You cannot change the system overnight. You have to go step by step and this is taking place. When I first assumed charge, no District Judge in the country was getting a staff car. One of the judges who was trying the most famous Union Carbide case met with an accident and broke his leg, while travelling in a bus. Thereafter, this matter was taken up with all the Chief Ministers. They were not willing to give a staff car to the District Judge. Then I had to impress upon them that if a Collector and others get a car, why not a District Judge? Then the State Government agreed to give a staff car to the District Judge. Now with great difficulty they have agreed to give library facilities and transport facilities. So we are persuading them slowly and steadily. Because of financial constraints, they are also helpless. This is a continuous process by which we must improve the service conditions of all judges. I accept this proposition that judiciary is not like other services. That fallacy must be removed from our minds. Because other services are not getting it, judiciary also should not get it is not correct. Judiciary is a separate limb of State. It has an independent existence

and we have to maintain its independence. I am in agreement with the hon. Member, Shri Ram Jethmalani, that there is a philosophy behind the amenities which are provided to the judges. The philosophy is correct because unless you care for their good living and good working conditions, the quality of justice is bound to suffer... (interruptions)

श्री संघ प्रिय गौतम : मंत्री जी, मगर एक बात तो कर सकते हैं कि जैसे पालियामेंट काम के निपटारे के लिए रात बारह-बारह बजे तक बैठती है तो यह जो केसेज का अम्बार लगा हुआ है कर्ट में, उनके निपटारे के लिए कोर्ट ज्यादा देर तक बैठे और जो कोर्ट की दो महीने की छुट्टियां होती हैं उसमें पन्द्रह दिन की कटौती कर दी जाए। जब आर्थिक संकट देश के ऊपर है, खर्चे अधिक बढ़ा नहीं सकते तो यह तो आप कर सकते हैं।

I have given you some points. The courts should sit for some more time.

**SHRI H. R. BHARDWAJ :** Sir, the Courts function under a certain system, not like this... (Interruptions)... Sir, we have already requested the Bench and the Bar to see if they can reduce the arrears and to see how they can do it. Fortunately, now, with the cooperation of the judiciary, this year, the Supreme Court has pruned down the arrears by 10,000. So, efforts are being made. But this is not a system where you can straightway say, "Do this and do that". They are meant for administration of justice and we cannot tamper with justice. Therefore, you have to go to them and make a request, and then the Bar has to co-operate. Now, the Supreme Court has increased the working hours by half-an-hour every day. Also, when the Supreme Court is called upon to take an important case, they sit at midnight. They have sat at midnight in the recent days. I don't say that the Supreme Court and the High Courts are not willing but the only thing is that we must cooperate with them and give them those facilities which are necessary. I am happy that on these

issues, we are always unanimous and we always welcome them. Mr. Ram Jethmalani was kind enough to say that I was always receptive. I value the suggestions of my colleagues. And when you give constructive suggestions, it will definitely make me function better as a Minister and every suggestion from every corner encourages me; it does not discourage me from doing my work. Therefore, on this issue, when you lend me support, I am proud of this support. And let it be conveyed that on this issue, the entire country is one with the judiciary. With these words, Sir, I move that the Bill be passed.

**SHRIMATI JAYANTHI NATARAJAN** : Sir, the hon. Member, Mr. Patel, raised an important point about woman-judges. At present, there is only one women Judge of the Supreme Court and there are very few woman-Judges in the High Courts. Will the Government initiate steps to see to it that more women-Judges are appointed ?

**SHRI TINDIVANAM G. VENKATRAMAN** : You demand 30 per cent reservation.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI)** : You would like to respond.

**SHRI H. R. BHARDWAJ** : Definitely, Sir, I am in agreement with that. We have been searching for talents in women. When I joined the Bar, there were no women in this field. Now, over the years, we find that there are three or four woman-Judges in the Delhi High Court. And we are trying to have one or two woman-Judges in every high Court. On this issue, we are requesting that if there are woman-lawyers who fulfil the qualities desired by the Chief Justice, they can be recommended. Preferential treatment will, definitely, be given. There is no reservation on this point. I think, in the last few years, there has been one woman Judge in the Supreme Court.

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**SHRI SURESH PACHOURI (Madhya Pradesh)** : Sir, with your permission, I would like to know from the hon. Minister as to whether he would relax the age limit for woman-Judges.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI)** : He has said that he would see to it that more woman-Judges are appointed.

**SHRI MOTURU HANUMANTHA RAO** : Sir, I welcome the Bill. Of course, we should support the demands of the Judges. But, recently, a judgement which was given by the Court has disturbed the entire womanhood of our country. The Karnataka High Court had convicted two youths on the charge of raping a girl. But when they appealed to the Bench comprising two Judges, they reduced the sentence saying that in their youth they were tempted to do it and so it was an excusable thing. It is the most awkward thing. This creates social problems also. This should not have been done.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI)** : Now, I shall first put the motion regarding the Supreme Court Judges (Conditions of Service) Amendment Bill, 1993, to vote.

The question is :

"That the Bill further to amend the Supreme Court Judges (Conditions of Service) Act, 1958, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

**THE VICE-CHAIRMAN (SYED SIBTEY RAZI)** : We shall now take up Clause-by-Clause consideration of the Bill.

*Clauses 2 and 3 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI H. R. BHARDWAJ : Sir, I move :

"That the Bill be returned."

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

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : I shall now put the motion regarding consideration of the High Court and Supreme Court Judges (Conditions of Service) Amendment Bill, 1993, to vote.

The question is :

"That the Bill further to amend the High Court Judges (Conditions of Service) Act, 1954 and the Supreme Court Judges (Conditions of Services) Act, 1958, as passed by the Lok Sabha, be taken into consideration."

*The motion was adopted.*

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : We shall now take up clause-by-clause consideration of the Bill.

*Clauses 2 and 3 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI H. R. BHARDWAJ : Sir, I beg to move :

"That the Bill be returned."

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

# THE INLAND WATERWAYS AUTHORITY OF INDIA (AMENDMENT) BILL, 1993

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : We shall now take up the Inland Waterways Authority of India (Amendment) Bill, 1993. There were two

or three speakers. But they have agreed that this is a non-controversial Bill and it could be passed without discussion. Since only Mr. Ashis Sen wants to speak, he can speak. Now, the Minister to move the Bill.

THE MINISTER OF STATE OF THE MINISTRY OF SURFACE TRANSPORT (SHRI JAGDISH TYTLER) : Sir, I beg to move :

"That the Bill to amend the Inland Waterways Authority of India Act, 1985, as passed by the Lok Sabha, be taken into consideration."

*The question was proposed.*

SHRI ASHIS SEN (West Bengal) : Sir, considering the pressure of time, I would like to confine myself within two or three minutes.

I support this Bill because it ends the dichotomy between the Inland Waterways Authority of India Act and the Indian Vessels Act as far as determining the freight and fare of the passengers is concerned. While supporting this Bill, I would like to point out certain things. Our country is full of riverine infrastructure which could be fully utilized for the purpose of transport of goods and passengers in our country. But, while mentioning this, I would like to say that there is the Raja Bagan Dockyard in the Garden Reach area of Calcutta which manufactures and produces steamers and small shipping vessels which feed the various ports in the country. But I find today that in spite of there being thousands of skilled workers and engineers, full utilization of that Dockyard is not being made. Even though we would like to have improvement and betterment of the waterways, I would like to request the Minister to see, while abolishing this dichotomy, that the purpose for which this is being done is served and that most of the small vessels and steamers are ordered for from the Raja Bagan Dockyard in the