

on Monday in the presence of all the Members.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : That is good.

SHRI MENTAY PADMANABHAM : It does not mean that the Minister can go away. Let the Minister listen to the speeches of the Members.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Kindly be brief.

SHRI S. MUTHU MANI : Sir, I am the only speaker from my party. But, I shall cooperate fully... *(Interruptions)*

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : You kindly speak.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE NATIONAL COMMISSION FOR BACKWARD CLASSES ORDINANCE, 1993

II. THE NATIONAL COMMISSION FOR BACKWARD CLASSES, BILL, 1993— Contd.

SHRI S. MUTHU MANI (Tamil Nadu) : Mr. Vice-Chairman, Sir, the Bill is the result of the judgement of the Supreme Court delivered on 16th November last year wherein the apex Court endorsed the view that the backward classes needed to be given reservation in job opportunities. However, I have some observations to make. Clause 2 of Chapter 2 of the Bill which provides for the constitution of the Commission says that there shall be five members in all—A retired judge who will be the chairperson, a social scientist, two persons who are experts on matters related to backward classes and an official of the Central Government. I do not understand the rationale behind this composition. The absence of provision to appoint some members from among the backward classes can lead to mistrust. No degree of special knowledge about backward classes can give a person the proper understanding of a backward class unless he hails from a backward class. The historical discrimination suffered by backward classes, the nuances of diverse socio-economic problems, their priorities and such other matters related to them can be understood in

their true spirit only by persons hailing from that community. Hence I feel that majority members should be from among backward classes. Other than the Chairperson and Member-Secretary, the rest of the members should be taken from the backward communities. I sincerely hope that the Government will take note of this feeling.

According to the judgement, the Central and the State Governments have the power to create a permanent mechanism in the nature of a Commission for examining requests of inclusion and complaints of over-inclusion or non-inclusion which shall ordinarily be binding upon the Governments. If the Government does not accept the advice, it must record its reasons. But in Chapter 3, Clause 9 (2) of the Bill merely says, "The advice of the Commission shall ordinarily be binding upon the Central Government." There is no mention of what the Court has observed in case of non-acceptance of the advice of the Commission. Unless the Government is bound by law to substantiate the reasons for non-acceptance of the Commission's advice by recording its reasons, the Commission will be reduced to the level of a puppet. So, I request the hon. Minister to look into this observation and do the needful.

Sir, I have a pertinent point to make. Clause 11 of the Bill says that the Government, after 10 years or even earlier if it thinks fit, can undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes. It seems to me to be a thoughtless provision without augural insight.

We have had reservation for SC/STs for over 40 years. But so far we have not been able to fill up even the backlog of vacancies reserved for them. Then, how does the Government think of excluding certain backward classes from the list after just 10 years? This is an unwanted provision and it must be removed from the Bill. Having described them as socially and educationally backward, the Government has failed to provide them reservation in educational institutions. It will be diffi-

cult to find suitable persons from backward castes for various posts without reservation in educational institutions. Therefore, I want the hon. Minister to say whether the Government will consider giving reservation in educational institutions also.

It is unfortunate that age relaxation has not been extended to the backward class people as in the case of SC/STs. In States where there is reservation for backward classes, age relaxation is also given. Since backward class people come mostly from villages, they have to face a lot of hurdles and have to skip years to take up higher studies. Therefore, I would like to know whether the Government will relax the age limit by five years to backward class people.

Sir, on the pathway of Thanthai Periyar, Dr. Anna, Dr. Puratchithalaivar, M.G.R., under the leadership of our beloved leader Dr. Puratchithalaivi, in addition to the reservation for SC/STs, we have given in Tamil Nadu 50% reservation for backward classes since a very long time. Therefore, I want an assurance from the Minister that because of the 27% limit of reservation at the Centre, the higher per cent of reservation for backward classes in the States will not be affected. The 50% reservation being provided to the backward classes in Tamil Nadu both in educational institutions and job opportunities will have to be protected by the Centre at all costs. The Central Government should go with a review petition to the Supreme Court for protecting this 50% reservation in Tamil Nadu.

Sir, as regards the report of the expert committee, the less said the better. After the eloquent speech by the hon. Congress Member and legal luminary, Shri Shiv Shanker there is no reason why the Government is not taking leave of the House to withdraw the report. The expert committee has not only lost right of the spirit of the judgement but added confusion and anomaly. While the children of Governors are given the benefit of reservation but the children of Class I officers and even farmers have been denied this benefit.

I wish to point out certain anomalies in the report. It is a matter of regret that the expert committee report has brought in

more confusion than clarification. The concept of "creamy layer" is only a device to divide the backward class people in order to deny them the full benefit. It is a fact that even the unreserved vacancies are snatched away by the "creamy layer" among the forward classes. Therefore, the argument for excluding the "creamy layer" does not hold water.

There are a lot of anomalies in the recommendations of the expert committee. The children of Class I officers have been excluded from the purview of reservation whereas the children of a businessman or a trader who shows an annual income of less than one lakh, says Rs. 99,000/-, are entitled for reservation. A Class I officer with a basic pay of Rs. 2,200/- or a little more gets around Rs. 50,000/- a year. Yet he is unfortunate not to be eligible to avail of the benefit of reservation for his children. But a businessman who shows an annual income of less than one lakh, which is double the income of a Class I officer—(no one knows his real income)—gets the benefit. I would like to know what added advantage the poor government servant has over his fellow-citizen.

Again, the report says that a Class II officer is entitled to reservation. The scale of basic pay of a Class II officer is Rs. 2,000/- to Rs. 3,500/- while that of a Class I officer is Rs. 2,200/- to Rs. 4,000/-. A Senior Class II Officer may draw a basic of Rs. 3,000/- or more and yet the benefit whereas a Class I Officer with a basic pay of Rs. 2,200/- would not get this benefit. I want to know what he is going to do to remove this anomaly... (Time Bell)... Sir, I will finish in a minute.

Sir, a great injustice has been done to the farmers also. In Chapter V, clauses 17 to 20 speak of exclusion of farmers having irrigated land to an extent equal to the statutory ceiling limit or 65 per cent of it. This is unjust because having land alone does not mean regular income. Most of the crops are damaged because of the vagaries of nature, non-availability of fertilizers and power cuts, binding the farmers' miseries. Therefore, the children of the farmers irrespective of their land holdings should be given the benefit of reservation. Thank you, Sir.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Mentay Padmanabham. Only five minutes.

SHRI MENTAY PADMANABHAM (Andhra Pradesh) : Thank you, Mr. Vice-Chairman. Sir, the discussion on the National Commission for Backward Classes Bill is a very serious discussion. Some of the most eminent Members of this House who happen to be eminent lawyers also spoke on this Bill to make their views clear. I should mention in particular Mr. Jethamalani on that side and Mr. Shiv Shanker on this side. They made their viewpoints and the Government would be greatly benefited if they had noted down their points and suitably act in the matter.

Sir, I distinctly remember when Mr. V. P. Singh made a statement in this House that the Government was reserving 27 per cent of the Central Government jobs for the Backward Classes in accordance with the recommendations of the Mandal Commission. It is still green in my memory. On that day, most of the Members who are sitting on the ruling party side were in the Opposition and the BJP, which is now in the Opposition, was a party which was supporting Mr. V. P. Singh's Government and therefore, all the parties, the Left parties and other parties, without any exception, welcomed that statement. One senior Congress (I) Member even suggested : "Why don't you extend this reservation to educational institutions also like medical and engineering institutions and other higher educational institutions?" There was an all-round appreciation for this decision. But what happened afterwards? Yesterday, somebody while speaking mentioned about the motives of Mr. V. P. Singh. That is the reason why I am going into it now. Then what happened? The Delhi students started an agitation. What was behind this agitation? Some of the boys who were students of the Delhi University—some of them were not even students—resorted to self-immolation. Who were behind this? I have seen with my own eyes that a body was made to commit self-immolation by some hooligans. And who were the people who made these boys commit self-immolation? Sir, I will be failing in my duty if I do not mention about these elements. The Delhi Congress (I) Committee. ... (Interruptions)...

SHRI K. V. THANGKA BALU : Sir, I have a serious objection to this... (Interruptions)... I have a serious objection to this, Sir. (Interruptions)...

SHRI MENTAY PADMANABHAM : Why? What is wrong?... (Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF WELFARE (SHRI K. V. THANGKA BALU) : Sir, what the honourable Member said is wrong. The Congress (I) was against it... (Interruptions)... It had nothing to do with it... (Interruptions)...

SHRI MENTAY PADMANABHAM : That is your perception. But I have a right to say what I want to say... (Interruptions)...

SHRI K. V. THANGKA BALU : You can say anything, but not at the cost of the Congress (I) Party... (Interruptions)... Don't talk about the Congress (I) Party... (Interruptions)...

SHRI MENTAY PADMANABHAM : But I have a right say whatever I feel is correct, whatever I feel is the truth. Sir, the Delhi Congress Committee people were actively involved in...

SHRI K. V. THANGKA BALU : Sir, again it is going on record. It is wrong. The Delhi Congress Committee had no part in it...

SHRI MENTAY PADMANABHAM : I am withdrawing the word 'Committee'. The people who are active in the Congress Party of Delhi...

SHRI K. V. THANGKA BALU : Sir, against he is referring to it.

SHRI MENTAY PADMANABHAM : Yes, they are. I can even name them.

SHRI K. V. THANGKA BALU : I against he is referring to it.

SHRI MENTAY PADMANABHAM : I can even name them.

SHRI K. V. THANGKA BALU : It should not be a part of the record.

SHRI MENTAY PADMANABHAM :
I can even quote from the newspapers of those days.

SHRI K. V. THANGKA BALU : He can quote. There is no problem. But it is not correct.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Mr. Padmanabham...

SHRI MENTAY PADMANABHAM :
I have a right to say whatever I feel.

SHRI K. V. THANGKA BALU : You have a right to say anything but not the untruth. You say the truth only.

SHRI MENTAY PADMANABHAM :
Whatever you speak is the truth and whatever I say is not the truth? You refute it in your reply.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : Just a minute. Mr. Padmanabham, while making a statement in the House, you are making it with full responsibility...

SHRI MENTAY PADMANABHAM :
I am making it with full responsibility. I am making it with all the force at my command.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) :... and let the Minister, while giving his reply, answer these points.

SHRI MENTAY PADMANABHAM :
Sir, they were actively in it. And those people who instigated the hooligans in November, 1984, when Mrs. Gandhi was killed...

SHRI JAGESH DESAI (Maharashtra) :
Mr. Padmanabham, at that time...

SHRI MENTAY PADMANABHAM :
I am not yielding.

SHRI JAGESH DESAI :... Mr. V. P. Singh was the Prime Minister. Why have they not taken any action against those people?

SHRI MENTAY PADMANABHAM :
I am sorry, I am not yielding, Mr. Desai.

SHRI JAGESH DESAI : Why did they not take action? You tell us. They were in power.

SHRI MENTAY PADMANABHAM :
I am coming to that. It is not a question of one Government taking any action against those people. Whether one Government had acted with full responsibility or not is not the point. I am only referring to the motives because somebody has referred to the motives of Mr. V. P. Singh or the National Front Government. That is the reason why I am now referring to it. Okay, Sir. So, those elements, in those days, instigated people to go on roads and protest against the introduction of reservation to the Backward Classes.

Then, Sir, I would like to make another point. What is the reason for Mr. Advani's Rath Yatra after the introduction of the Mandal Commission Report? What is the real motive? Everybody knows, and the entire press at that time wrote that because of this Mandal Commission, in order to riggle out of a critical situation in which the BJP was placed because of this, Mr. Advani started his Rath Yatra. And we know very well what happened afterwards. Those people who opposed this, and those who instigated people, who encouraged innocent youngsters to resort to self-immolation, they are all now shedding crocodile tears for the Backward Classes. That is the saddest part of the entire episode. Sir, anyway, now every party has come to a stage—I am really happy about it—where they cannot oppose this reservation to the Backward Classes openly, whatever may be their private opinions. Even the BJP spelt out in their election manifesto that they will introduce reservations to the Backward Classes. And the Congress Party also said it with certain qualifications. Every other major party said that they will abide by the reservation policy. This is a happy situation. Sir, how has this thing developed in this way?

Today, some hon. colleague of this House said that the whole credit should go to Mr. Sitaram Kesri. I am not averse to giving any credit to the hon. Minister.

SHRI SITARAM KESRI : Why?

SHRI MENTAY PADMANABHAM :
I am giving credit. If you do not want to

take it, all right. it is left to you, Sir. It is because he was able to successfully withstand the upper-caste lobby within the Congress, the North-Indian upper-caste lobby within the Congress and is able to bring up this Bill. I was doubtful whether this Government would bring out this sort of a Bill, even a small Bill like this. To that extent, I can give credit to the hon. Minister. But there are some other eminent people and we should not forget their names who have been fighting for social justice to the backward classes and other dispossessed classes in the society for a long time. *(Time bell rings)* Kindly give me two-three minutes more because my time has been taken up by these interruptions.

Sir, this movement started originally in the South. The other day, my friend Mr. Balamurugan referred to it and said that Ramaswamy Naicker started it way back in 1920. He fought against the British. He fought against so many other vested interests and was able to give a reasonable and respectable place to the backward classes and other dispossessed sections in the Hindu society. The other important name is of Karpoori Thakur...

SHRI JAGESH DESAI: And Mahatma Phule in Maharashtra.

SHRI MENTAY PADMANABHAM: Yes, Mahatma Phule in Maharashtra, and there are a number of people. On a political plane and on social plane, these great men had taken up this issue as their life's mission and they fought for it during the last 60-70 years. So, this Bill is the culmination of their efforts.

There are one or two things which I would like to mention. Yesterday, Mr. Shiv Shanker while speaking made it quite clear. He is your own partyman, a senior member of your party, and the sum and substance of his argument was that the present Government is not sincere in giving advice to the Attorney-General or the Solicitor-General, whoever argued on behalf of the Government in the Supreme Court. The Government has not come out with full details and it has not given a free hand to argue the case on behalf of the Government in the Supreme Court in rebutting the petitioners. That is the reason why I have

been saying that the Government's intentions are not sincere right from the beginning as far as giving reservations to the backward classes is concerned. What is wrong in it? There is nothing wrong. Government has always been exhibiting a sort of ambivalence towards this issue.

Having said this, I would now like to come to this Bill. Section 9 is crucial in the entire Bill. Yesterday, Mr. Shiv Shanker referred to it and I would like to refer to it again because this is a very very complicated and a complex issue. In many States, this reservations policy is being followed for the last 30 years or 25 years. For example, all the States in the South are following it. Some of the Northern States have introduced this reservations policy for the backward classes and they have identified backward classes also. In some States, there is a so-called compartmental system according to the level of their backwardness. Now, if this Commission is constituted and if this commission is again to identify the backward classes State-wise, this will create a lot of confusion because as envisaged in the original scale, if the Commission which is going to be constituted according to this Bill, would automatically accept those communities which were identified in the States as backward classes and which also find a place in the Mandal Commission's report, they can be passed off. If there is any additional claim over and above this from any community in any of the States, on the basis of the recommendations of the concerned State Governments, the Commission can consider. If that kind of arrangement is made while framing the rules—there is a provision for framing rules—if that kind of arrangement is made, all this confusion can be avoided. This is a very important issue. Therefore, I would advise the Government to consider this. Many communities may be making their claim. It may be a community from Kerala or Andhra Pradesh or Manipur. Many communities may be claiming backwardness and, therefore, they may be asking for inclusion in the backward class list. If the people who constitute this Commission, who are sitting in Delhi, are to go and determine... *(Time-bell rings)* Just one or two minutes more, Sir. If the people who constitute the Commission, who are sitting in Delhi,

are to go and determine whether a particular community is backward or not it would be a very vexatious problem. It would create a lot of other complications to the Government. It would also further divide the social system. This has to be taken care of. I think the Minister would take care of it.

There is another thing. There is one point in the report of the Expert Committee to which I would like to refer. It really makes the issue more complicated. I am not going into all the recommendations of the Expert Committee. I would only like to refer to their recommendation concerning agriculturists, who constitute the largest section of our society and for whom we are now trying to give more benefits. If they are considered as 'creamy layer', if they are taken to the exclusion list, how can you give benefits to the rural people, people living in the rural areas, people working in the agricultural sector as agricultural labourers, small artisans, etc.? There is one other recommendation—recommendation No. 29. It says: 'Persons working as artisans or engaged in the hereditary occupations callings, etc., like potters, washermen, barbers, etc., are exempted from application of the rule of exclusion.' It is really good. I am very happy about it. But Sir, there are many other communities like weavers, toddy-tappers, dhobis and others.

I would, therefore, request the hon. Minister that he should see that a list is made of such classes all over the country, State-wise. This is a vexatious problem. This is a very serious matter. Therefore, a proper list should be made. I say this because the nomenclature, the names, of these classes vary from one State to another. They have all the material. They have all the data with them. The Commission or the Government, if they seriously take up this issue can easily identify these artisan classes and exempt them from application of the rule of exclusion. Sir, agriculture is, in fact, linked up with land reforms. What is the rationale behind it? Land reform laws are not uniform in all the States. You know it pretty well. In some States, the optimum limit is 40 acres, 60 acres, 70 acres. In some other States, the optimum limit is 10 acres, 12 acres. If

you say '65 per cent of statutory ceiling area', what will happen? In one State, a person with even 5 acres of land will be excluded. In some other State, a person who happens to have 10 acres, 15 acres, or 20 acres will not be excluded. I do not understand the rationale. I do not know how they have arrived at this kind of thing. Instead of that, my suggestion is that you should exempt all the people who are making a living out of agriculture. All the agriculturists should be exempted. They should be removed from the exclusion list. The principle of reservation should automatically be applied to the agriculturist class, to the people who are living on agriculture, whether they are owners of agricultural land or agricultural tenants or agricultural labourers.

Para VI refers to income test. Even if the income test is to be applied, it will create problems. The person has to apply for a certificate of income to a village officer like the *karnam* or *munsif*. You know pretty well how difficult it is these days to get a certificate from a local village officer or a local *tahsildar*. Therefore, there is a need to revise the entire recommendations of the Expert Committee. But unfortunately, the Government had committed that they would accept all the recommendations of the Expert Committee in toto. This is really unfortunate. Even now it is not too late. I would like to request the hon. Minister to go into it again and, if necessary, call all the political parties, Members of Parliament. They are in touch with the ground realities. The experts are not in touch with the ground realities. We know the difficulties because we are working at the grassroots level. We know the difficulties and complexities that are there in the local areas, rural areas. So, these things should be taken care of before taking a final decision in the matter.

I do not know what will be the view of the hon. Minister after going from here, but I would strongly advise him to review once again this Expert Committee's report, take into consideration the suggestions made by this august House. You can meet some more people, invite them, take their suggestions, consult them, take the views from various States and then come to a con-

clusion on how to remove the 'creamy layer'.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY): Shri Anand Prakash Gautam. Only nine minutes for you and for Mr. Bhattacharya. So, adjust between yourselves.

श्री आनन्द प्रकाश गौतम (उत्तर प्रदेश) :
उपसभाध्यक्ष जी, राष्ट्रीय पिछड़ा वर्ग आयोग गठन के संबंध में जो विधेयक माननीय कल्याण मंत्री जी ने प्रस्तुत किया है, विगत अनुभवों के आधार पर हम कह सकते हैं कि वह पर्याप्त नहीं है और वह भी एक सफेद हाथी साबित होगा। हम भले ही उस दिशा में शुरुआत मान लें लेकिन सामाजिक न्याय की अवधारणा के अंतर्गत सामाजिक और शैक्षणिक रूप से पिछड़े वर्ग के लोगों को विकास की मुख्य धारा में लाने तथा देश की रक्षा और प्रशासन में उनकी भागीदारी सुनिश्चित करने के लिए हमारे देश के संविधान निर्माताओं ने संविधान समिति अध्यक्ष के रूप में बाबा साहेब डा. भीमराव अम्बेडकर ने संविधान में यह प्राधान्य दिया था कि सरकारें उनके उत्थान के लिए विशेष कार्य करेंगी और इसी के तहत समय-समय पर आयोग बनाए गए और काका कालेरकर आयोग और अंत में 1979 में मंडल आयोग का गठन किया गया, जिसने 1980 में अपनी रिपोर्ट प्रस्तुत कर दी थी, जो एक दशक तक तत्कालीन सरकार की राजनीतिक इच्छा शक्ति के अभाव में ठंडे बस्ते में डाल दी गई। जब जनता दल की सरकार वी. पी. सिंह जी के नेतृत्व में आई तो मंडल आयोग की वही सिफारिशें अगस्त, 1990 में लागू की गईं और उसके परिणाम-स्वरूप पिछड़े वर्ग के लोगों को सरकारी नौकरियों में 27 प्रतिशत आरक्षण सुनिश्चित हुआ। निश्चित ही यह एक अच्छा कदम था, जिसके लिए माननीय वी. पी. सिंह, उनकी पार्टी और उनकी सरकार को धन्यवाद दिया जाना चाहिए कि उन्होंने बहुत बर्षों

बाद एक अच्छा कदम उठाया। उस समय कांग्रेस पार्टी सबसे बड़ी विपक्षी पार्टी थी, जिसने उस समय आरक्षण का विरोध तो नहीं किया लेकिन उसमें एक ऐसी बात लगा दी कि सामाजिक रूप से, आर्थिक रूप से जो समाज के लोग पिछड़े हैं उनको भी 10 फीसदी आरक्षण दिया जाना चाहिए। जब वी. पी. सिंह जी ने सामाजिक और शैक्षणिक रूप से पिछड़े वर्ग के लोगों के लिए 27 प्रतिशत आरक्षण लागू किया तो सारे समाज में उनकी आलोचना की गई कि उन्होंने समाज को तोड़ने की बात की है। हमारे भारतीय जनता पार्टी के लोगों ने तो मंडल आयोग लागू होते ही कमण्डल का रास्ता चूना जिसके कारण पिछड़े लोगों का हित एक बार फिर अधर में फंस गया और देश को तरुणाई को उन्माद की भीषण जाला में डूबे दिया गया, जिसके कारण देश को बहुत नुकसान उठाना पड़ा और इस कारण वी. पी. सिंह जी की बहुत आलोचना हुई कि उन्होंने देश को वर्ग संघर्ष में धकेल दिया। लेकिन उच्चतम न्यायालय की सबसे बड़ी सफ़ाई पीठ ने यह प्रमाणित कर दिया कि वी. पी. सिंह जी द्वारा लागू किया गया मंडल आयोग का फैसला पूर्णतया संवैधानिक था। एक बार फिर यह साबित हुआ कि आर्थिक आधार पर सरकार फिर इस मुद्दे को उलझाना चाहती है। कांग्रेस पार्टी की नीयत इस मामले में साफ नहीं थी परन्तु माननीय केसरी जी को धन्यवाद देना चाहता हूँ जिन्होंने उच्चतम न्यायालय के निर्णय के बाद कुछ आगे चलने का रास्ता अपनाया और अपनी पार्टी को भी उसके लिए राजी किया और उसी संदर्भ में माननीय मंत्री जी ने यह विधेयक बहुत जल्दी में पेश किया है जिसमें बहुत सारी कमियाँ हैं, जिसके कुछ प्राधान्यों के बारे में हम अपनी असहमति दर्ज कराते हैं और कहना चाहते हैं कि यह जो बिल है मंडल आयोग की सिफारिशों को लागू करने के जो उद्देश्य थे, उनको यह किसी तरह से पूरा नहीं करता है।

मेरा मानना है कि उच्चतम न्यायालय द्वारा क्रीमी लेयर की अवधारणा संविधान का मंशा के प्रतिकूल है। एक हाथ से देना और दूसरे हाथ से ले लेना। विगत 10 सालों को एक्सपर्ट कमिटी की रिपोर्ट में सामाजिक और शैक्षणिक रूप से पिछड़े लोगों में क्रीमी लेयर के रूप में जो नौकरियों में आरक्षण से वंचित होंगे, वह कान लेग होंगे? वह पढ़े-लिखे, अच्छे परिवारों के नौजवान होंगे जिनका सामाजिक स्तर औरों के समान मान लिया जाएगा। वही लोग वंचित रहेंगे और बाकी लोग उच्च शिक्षा और दक्षता के अभाव में वंचित रहेंगे। तो रिपोर्ट में सीलिंग लिमिट का 65 प्रतिशत खेती रखने वाला व्यक्ति भी सामान्य सामाजिक स्तर का मान लिया जाएगा। उसके बच्चे गांव के स्कूलों में पढ़े-लिखे होंगे जो या तो नौकरियों के लिए योग्यता परीक्षा में पास हो नहीं होंगे या अच्छी अंग्रेजी न जानने के कारण उनकी आगे की कौशलों ही नहीं जांची जाएंगी जैसा कि मीडिकल और इंजीनियरिंग प्रवेश परीक्षाओं में होता है। यह मेरी जानकारी में आया था।

महोदय, पिछले वर्ष भी मैंने इस बात को उठाया था कि मीडिकल और इंजीनियरिंग की जो प्रवेश परीक्षाएं होती हैं, उसमें जो लोग सामान्य अंग्रेजी के पंच में पास नहीं होते, वे चाहें जितने विद्वान हों, चाहें जितना अच्छा चर्चा करें, उनकी आगे की कौशलों जांची नहीं जाती। यह भी साजिश के तौर पर है। सामान्य अंग्रेजी में पास नहीं होते, इनकी कौपी जांची नहीं जाती। उच्च शिक्षा हेतु प्रवेश में आरक्षण के अभाव में उनकी योग्यता से वह वंचित रह जाते हैं। तो शिक्षा से वंचित लोग अयोग्यता के कारण और जो शिक्षा प्राप्त करने वाले लोग हैं, जिनके परिवार के लोग शिक्षा दिला सकने का अवसर रहते हैं, वह लोग क्रीमी लेयर की अयोग्यता के कारण संवैधानिक अधिकार, जो संविधान के द्वारा प्रदत्त अधिकार है आरक्षण का, उससे वंचित हो जाएंगे। फिर

मानसिकता का प्रश्न उठता है कि मजबूरी के कारण अगर देना ही पड़े तो क्रीमी लेयर की कटार भी लगा दी जाए कि उससे जो बात है वह कट जाए। फिर ढाक के वही तीन पात। फिर वही के वही पिछड़े वर्ग हो लोग।

महोदय, मैं अपनी बात बहुत जल्दी खत्म करूंगा। क्रीमी लेयर लगाकर पिछड़े वर्ग को दो वर्गों में विभाजित करने की एक साजिश सामने आई है। अभी तक तो पूरा वर्ग एक वर्ग था। अब क्रीमी लेयर कहकर उसको फिर से विभाजित की जाए। उसके दो हिस्से करिए। विभाजित करिए और शरून करिए, यह नीति तो बड़ी पुरानी है। इसी आधार पर समाज में शोषण होता चला आया था। जो लोग जागरूक हैं, हक की लड़ाई लड़ रहे हैं उनको अलग कर दो। बाकी अज्ञानी और अयोग्य लोगों को उनके हक से वंचित करना तो बड़ा आसान हो जाता है।

अभी 27 परसेंट आरक्षण की शुरुआत भी नहीं हुई, आशंकाओं के पहाड़ रुड़े कर दिए गए। पूरी दूरी अभी खाली पड़ी है और जो आदमी थोड़ा मोटा हो गया, उसके बैठने के पहले ही उसको मना कर दिया जाता है कि—भई तुम्हारे लिए जगह नहीं है। दूसरी तरफ देश में 15 प्रतिशत आबादी गले लेंगे, जिनके नौकरियों में 90 फीसदी स्थान हैं, क्रीमी लेयर तो उन पर लगनी चाहिए। यदि क्रीमी लेयर उन पर लगा दी जाए, तब जाकर सही मायने में जो हम लोग चर्चा कर रहे हैं, उसका सही अर्थ तभी सिद्ध होगा। इसलिए मेरा अनुरोध है कि क्रीमी लेयर को उतारने से पहले माननीय मंत्री जी पिछड़े वर्ग के 27 परसेंट आरक्षण को पूरा करने के लिए कोई एक सशक्त विधान लें आए और संविधान में कोई आवश्यक संशोधन भी करना पड़े तो पूरी इच्छा शक्ति के साथ उस संशोधन को करने के लिए आगे आए और हम सब लोग उसका समर्थन करने के लिए तैयार हैं।

अन्यथा ये जो पिछड़ा वर्ग आयोग है बिल्कुल उसी तरह हो जाएगा ! जैसे अनुसूचित जाति, जनजाति का आयोग बना हुआ है, वह भी कोई अर्थ नहीं रहता । कोई मामला नहीं, कोई मदद भी नहीं करता । अभी अभी जो बसों के परमिट दिए गए हैं, वह उसनी ज्यादा शर्तें लगाता है जो सामान्य विकास निगम है वह उनको मंजूर कर लेते हैं, लेकिन वह वहां फेल हो जाता है, यह इतनी शर्तें लगा देते हैं । यह तो अड़गे के लिए हो जाता है कि कहीं हमारा भी यह बंका न हो जाए इसके लिए जरूरत पड़ेगी काम करने की । यदि उच्चतम न्यायालय द्वारा किए गए निर्देशों का पालन बही अपने कर्तव्य की इतिश्री मानते हैं तो भले ही पोलिटिकल माइलेज आप हो मिल जाए पर सही अर्थों में पिछड़े वर्गों का हित सिद्ध नहीं होगा । लोकतांत्रिक प्रणाली में जहां न्यायपालिका स्वतंत्र है वहीं भारतीय संसद में सर्वाधिकार सम्मिलित है । यदि पिछड़े वर्गों के आरक्षण की संवैधानिक संज्ञा पूरी नहीं होती है और उनके हक में न्यायपालिका का निर्णय कहीं आड़े आता है तो उसके लिए संविधान में प्रावधान किए जाने का रास्ता खुला हुआ है । मेरा आपसे अनुरोध है कि तथाकथित क्रीमी लेयर की अवधारणा के अनुपालन के पहले पिछड़े वर्ग का सरकारी नौकरियों में आरक्षण पूरा कराएं और शिक्षण संस्थाओं में प्रवेश में पिछड़े वर्ग का आरक्षण सुनिश्चित कराएं । तभी मंडल आयोग की सिफारिशों के लागू करने का सही औचित्य सिद्ध हो पाएगा अन्यथा हम अधूरे मन से मात्र औपचारिक कदम उठाकर अपने कर्तव्य की इतिश्री मान बैठेंगे और संविधान में सन्निहित सामाजिक न्याय की अवधारणा नौकरशाहों की फाइलों में धूल चाटती रहेंगी ।

इसलिए मान्यवर, मैं मंत्री जी से अनुरोध करूंगा कि कृपा करके इस अधूरे बिल को वापस करके एक्सपर्ट कमिटी की रिपोर्ट पर पुनर्विचार करें और एक सोचा समझा बिल बाई जियामें मंडल कमिशन की सिफारिशों

का सही लाभ समाज के पिछड़े वर्गों को मिल पाए ।

धन्यवाद ।

SHRI W. KULABIDHU SINGH (Manipal): Sir, I thank you very much for giving me an opportunity to express my views on this very important Bill.

I will not repeat or touch the points expressed by my party's hon. colleague, Mr. Ram Jethmalani. I will only emphasise upon those points which have been left by him.

Mr. Padmanabham has already spoken about the adoption of the Mandal Commission's Report by the National Front Government on 7th August, 1990. 7th August, 1990 is a historic day for the backward classes, Scheduled Castes and Scheduled Tribes. As stated by some of our friends earlier, the adoption of it was unanimous. The Congress (I) party, which was at that time an Opposition party, fully supported the implementation of the Mandal Commission's Report on 7th August, 1990. The BJP friends, who were till that date backing the National Front Government, led by Mr. V. P. Singh, as Prime Minister, also had wholeheartedly supported it. Afterwards they changed a little.

We have heard about the first Backward Classes Commission chaired by Kaka Kalelkar. That was in 1953. Within a period of two years and two months, the first Backward Classes Commission submitted its report. Unfortunately, the Chairman of the Commission, Kaka Kalelkar, though did not give his dissenting note expressed in his forwarding note that he was opposed to the concept of treating caste as a backward class. The Chairman of the first Backward Classes Commission was opposed to the concept of constituting a Commission and of its recommendations. I do not know why such a disrespectful person who was opposed to the concept of development of the backward classes was made Chairman of the Commission. It was very unfortunate.

The second Backward Classes Commission was constituted on the 30th December, 1978 under the Chairmanship of Shri

B. P. Mandal. He had submitted his report on the 31st December, 1980, exactly within two years. As I submitted earlier, Mandal Commission's recommendations were historic recommendations which were adopted by the House. After the adoption of the Mandal Commission's recommendations, some conflagration in the form of self-immolation by some students of the Delhi University took place. Whether they were stage-managed or not, that point was raised by my friend, Mr. Padmanabham. But there were also students who, after seeing these students, became enthusiastic and poured kerosene on them which was publicised as self-immolation. Those were the things. This shows the class character of the persons engaged in these things.

The Mandal Commission was constituted mainly for the downtrodden, the Scheduled Castes and the Scheduled Tribes and the backward classes. All the major political parties, either from the Congress-I or from the BJP, most of the leading members of these parties belong to forward castes. The class character of the persons consisting in these political parties reveal outwardly that they support it but in their heart of hearts, they do not like its implementation. Somehow to delay its implementation they have resorted to all sorts of things.

The policy of reservation enshrined in the Constitution was intended only for ten years. But within that period the upliftment of the downtrodden, the Scheduled Castes and the Scheduled Tribes and the backward classes could not be fulfilled. In the first ten years of the enforcement of the Constitution from 1950-60, nothing was done. So it was extended, extended, I believe for five times. So in this way the extension of this ten-year period was done several times. Why was it done? It was a genuine problem. That was an old problem.

Regarding the Supreme Court judgement on the 16th November, 1992, it was a memorable judgement. Some of our eminent lawyers and particularly an hon. Member, a senior colleague, Shri P. Shiv Shanker have expressed their reservations. He was accusing the Government that the

counsel were not properly briefed by them. He also said that the Government defaulted in submitting the proof, etc. The main attack was regarding this 'creamy layer', economic criteria; and the recommendations should not be extended to the educational institutions for medical education or other technical education. But I would like to bring to the notice of this august House that this Mandal Commission and the whole concept of reservation is in accordance with the provisions of article 340 of the Constitution. Under article 340 of the Constitution, the main emphasis and the salient feature is reservation of jobs for backward classes in Government services and public sector undertakings. The Commission does not mention reservation of jobs in the private sector and in private companies. The Mandal Commission was constituted in accordance with article 340 of the Constitution. Under that article, the Commission cannot recommend reservation of jobs in private institutions and in private companies.

6.00 P.M.

Only posts in the Government and public undertakings are reserved. That is why the Mandal Commission and, based on that, the Supreme Court did not touch the admission to educational institutions and technical institutions.

Broadly speaking, some of our friends, both from the Congress and from the BJP, were supporting the reservation policy. But they were attacking the Supreme Court judgment and said that a review petition, another writ petition, need to be filed, to delay the thing. Of course, they did not say "to delay the thing", but their real intention was to nullify or delay it. The historic judgment of the Supreme Court is now going to be implemented by the present Ministry under the leadership of our hon. Minister, Shri Sitaram Kesriji. I congratulate him on the measure he has brought forward within four months. While giving credit to him, I should also mention that the Supreme Court also directed that a Commission should be constituted, its report should be published and it should be tried to be implemented within four months. Within that time-frame, the present Bill is being brought and the Expert Committee's report is also

being brought out. It is very timely. We cannot violate the Supreme Court direction also. I wholeheartedly support this Bill and wish that there should be no further delay. There should be no more hoodwinking of the spirit of the Supreme Court judgment and no writ petition to invalidate it should be filed. We want a social change, a radical change, through democratic and peaceful means. If these democratic, peaceful, means are to be hoodwinked by reviewing or nullifying the judgment, then that social change will come through a violent revolution. Bloodshed should not be encouraged. We should not create such a situation. Therefore, I wish that the recommendations of the Mandal Commission, which were fully endorsed by the Supreme Court, should be implemented at the earliest, with great speed.

With these words, I conclude. Thank you.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The Minister would like to intervene. Hon. Minister ... (Interruptions). I will call you after the Minister's intervention.

SHRI JAGESH DESAI : Sir, it will be better if he intervenes on Monday.

SHRI VITHALBHAI M. PATEL (Gujarat) : Nobody will take note of it even, now.

SHRI JAGESH DESAI : The leaders of the various parties are not present here. Therefore, let him intervene on Monday. But if the House wants it now, I have no objection.

SHRI SHANKAR DAYAL SINGH (Bihar) : Sir, you have already announced it.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : I announced the reply to be on Monday. When the Minister wanted to intervene, I had to ask the Minister to intervene. However, when the mood of the House is like this, I cannot help it.

AN HON. MEMBER : All of us want to hear the Minister.

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : I will call the next speaker. Shri Subramanian Swamy. Not here. Prof. Saurin Bhattacharya. Not here. Shri Ish Dutt Yadav. Not here. Shri Chhotubhai Patel. Five minutes only. I am going to ring the bell in five minutes.

श्री छोटे भाई पटेल (गुजरात) : मि.
वाइस चैयरमैन महोदय, समय की कम अवधि होने के कारण मैं लंबी बातें नहीं कहूंगा। मैं आपके माध्यम से आदरणीय मंत्री जी से एक बात कहना चाहता हूँ कि नेशनल कमीशन फॉर बैकवर्ड क्लासेज बिल, 1993 जो है, इसका मैं हार्दिक स्वागत करता हूँ और श्री सीताराम केसरी जी को बधाई भी दूंगा कि इस मुद्दे को उठाकर उन्होंने आम जनता में बहस करवाई और काफी ठोस कदम भी उठाए हैं और परिश्रम भी किया है। फिर भी इस बिल के बारे में मुझे कुछ आपत्तियाँ हैं, वें आपके समक्ष रखना चाहूंगा। समय की कमी की वजह से मैं काका कालेलकर और मंडल कमीशन के इतिहास में नहीं जाना चाहूंगा। मगर हमारे संविधान के मूलाविक जो देश में सोशियो इकनॉमिक एम्बेलेन्सेज है, उनको दूर करने के लिए काफी सरकार ने संविधान के तहत कदम उठाए हैं। और हमारे प्रिन्सिपल में भी इक्वल अपार्च्युनेटी की बात कही गयी है। मगर आजादी के 44 सालों के बाद हम 52 प्रतिशत बैकवर्ड क्लास सेक्टर में जो लोग आते हैं, उनके लिये आज बहस कर रहे हैं। जो कि आजादी के शुरू के दशक में ही करना चाहिये था, वह आज कर रहे हैं। इसमें भी इस वर्ग के लोगों को जितना संतुष्ट करना चाहिये था, न्याय देना चाहिए था, सोशो-एकनामिक दृष्टि से, वह आज हम उतना नहीं दिला रहे हैं जितना दिलाना चाहिये था। इसलिये इसमें मुद्दा जो है, एक कमीशन-सेटल गवर्नमेंट और पब्लिक सेक्टर अडरटेकिंग में सर्विस दिलाने के लिए, आरक्षण के तहत इसका बेंनीफिट देने के लिए हमने एक कमीशन बिठाया। तो मैं आपके माध्यम से सरकार से कहना

चाहूंगा कि यदि एस.टी./एस.सी. 22.5 प्रतिशत है, इसमें भी 10.2 प्रतिशत लोगों को ही सेंट्रल गवर्नमेंट की सर्विस अब तक दिलायी है और 27 प्रतिशत-शिक्षा में जो आरक्षण नहीं है, इसके बारे में कुछ प्रावधान नहीं किया गया है तो 27 प्रतिशत को सर्विस दिलाने के लिये जो कंडीटिंस में क्षमता होगी चाहिये, तो क्षमता तो एंजु-केशन से आती है। बिना एंजु-केशन के कैसे आ सकती है। वे कालेज एंजु-केशन कैसे पा सकते हैं जब तक शैक्षिक सेक्टर में आरक्षण का प्रावधान नहीं करेंगे। जब तक ऐसा नहीं करेंगे तब तक इस बिल में जो कुछ भावनाएँ रखी गयी हैं वे भावनाएँ फिजूल हो जायेंगी और इसका लाभ इन वर्ग के लोगों को बिल्कुल नहीं मिलेगा, यह साफ बात है।

कोई भूँके कहे कि इस बिल की जो भावना है क्या उन भावनाओं का अमलीकरण, क्रियान्वयन और इम्प्लीमेंटेशन होगा तो यह गलत बात होगी। कोई भूँके समझ नहीं सकता है कि ये भावनाएँ कार्यान्वित हो सकती हैं क्योंकि इसमें शैक्षिक संस्थाओं में रिजर्वेशन का प्रावधान नहीं किया गया है। महोदय, मैं आपके माध्यम से सरकार से यह कहना चाहता हूँ कि जब तक शैक्षिक संस्थाओं में आरक्षण को इन्क्लूड नहीं करेंगे तब तक 27 प्रतिशत तक पहुँच पाना एक मुश्किल बात है। जो क्रीम और मोर क्रीम लेयर की बात कही गयी है, हम छोटे बर्तन में दूध जब रखते हैं, गर्म दूध जब ठंडा होता तो धीरे-धीरे ऊपर एक लेयर बन जाती है और उसे आराम से हम निकाल सकते हैं। ऐसी लेयर जो समाज में क्रीम है या मोर क्रीम है, उसको कैसे निकाला जाएगा? इसके लिए कोई ठोस कदम भूँके एक्सपर्ट कमेटी की रिपोर्ट में रजूर नहीं जाती और सरकार ने भी इस बारे में कुछ नहीं कहा है कि लेयर को कैसे सपरेट करेंगे। अभी एस. टी./एस.सी. में भी जो है, जिन्होंने काफी बेंनिफिट आरक्षण का लिया है, जिनको यह

मिलना चाहिए, टर्मिनल प्वाइंट पर जो बँठे हुए हैं, उनको नहीं मिला है। तो भूँके लगता 27 प्रतिशत में भी जो गरीब तबके के लोग हैं उनको हमें इसका बेंनिफिट देना चाहिये। इसलिये क्रीम लेयर की जो बात है इसका मैं विरोधी नहीं हूँ कि उसको बेंनिफिट नहीं मिलना चाहिये जिसने सरकार से ज्यादा बेंनिफिट लिया है। मगर जिसको मिलना चाहिए उसको दिलाने के लिए जब तक शैक्षिक संस्थाओं में इसका प्रावधान नहीं करेंगे तब तक इसका बेंनिफिट उनको नहीं मिलेगा।

हर, मैं एक ही प्वाइंट रखना चाहूंगा।
(समय की घंटी)

हमारे देश में कोस्टल एरियाज में 14 स्टेट हैं। इन 14 स्टेट में जिसका 7500 किलोमीटर लंबा किनारा समुद्र का है वहाँ के रहने वाले ट्रेडिशनल आक्वैपेशनल जो हैं ... इसमें रिजर्वेशन के बारे में मेरा सुझाव है। हमने फिशिंग के लिए मशीनों और बोट का प्रबंध किया है लेकिन यह मशीनें समुद्र के किनारे पर रहने वाले फिशरमैन को नहीं दी गई हैं। इस तरह से जो किनारे पर रहने वाले फिशरमैन हैं उनको कुछ बचता नहीं है। सारी मछलियाँ बड़े एंजीपति जिनके पास मशीनें हैं, बोट्स हैं, वे ले जाते हैं। इसी तरह से हमारे हंडलूम वीवर्ज हैं जो कि उनका ट्रेडिशनल अक्वैपेशन है। इनके बारे में रिजर्वेशन के बारे में भी कल्याण मंत्रालय को सोचना चाहिए। यह बहुत जरूरी और अहम बात है। जो समुद्र के किनारे पर रहते हैं, यह उनके हक पर इनक्लूजमेंट है, उनके ट्रेडिशनल अक्वैपेशन पर वज्रपात हो रहा है, उसका भंदा, रोजी-रोटी खत्म हो रहा है। इसके बारे में कल्याण मंत्रालय को सोचना चाहिये। आपने भूँके बोलने के लिए जो समय दिया है, इसके लिए मैं आपको धन्यवाद देता हूँ।

THE VICE-CHAIRMAN (SHRI V. NARAYANASAMY) : The discussion on the Statutory Resolution seeking disapproval of the National Commission for Backward Classes Ordinance, 1993 and the National Commission for Backward Classes Bill, 1993 is over. The reply by the Minister will be on Monday at 12 o'clock.

Now we will take up Special Mentions.
Shri Shankar Dayal Singh.

SPECIAL MENTIONS

Need for payment of arrears of Royalty on Coal to Bihar Government

श्री शंकर दयाल सिंह (बिहार) : उप-सभाध्यक्ष महोदय, मेरा जो आज का विशेष उल्लेख है, वह बिहार सरकार को केन्द्र के जिम्मे अनेक मदों की बकाया राशि के भुगतान के संबंध में है। इस संबंध में मैं कहना चाहता हूँ कि बिहार की वित्तीय स्थिति इस समय अच्छी नहीं है। संसद के बजट सत्र के प्रारम्भ के समय राष्ट्रपति जी ने जो अभिभाषण दिया था उसमें स्वयं राष्ट्रपति जी ने कहा था कि बिहार को कहीं हिस्सों में सूखाड़ के कारण भयावह स्थिति है। ऐसी स्थिति में मैं आपके माध्यम से सरकार से यह कहना चाहता हूँ, इतिहास और भूगोल की बात यदि मैं छोड़ दूँ जो एक शौरवशाली परम्परा बिहार की रही है, खान और खनिज के मामले में भी बिहार 40 प्रतिशत से अधिक खनिज पदार्थ पूरे देश को देता है और पूरे देश का सब से समृद्ध प्रांत इस मामले में वह है। 1986-87 के अनुसार जब देश की औसत आय 2975 रुपये थी, बिहार की औसत आय 1082 रुपये थी। बिहार में 57.49 प्रतिशत लोग गरीबी की सीमा रेखा से नीचे रहते थे और इस समय 87.63 प्रतिशत जनता गरीबी में जता है जो कि रातों में रहती है।

उपसभाध्यक्ष जी, मैं जिस विषय के बारे में सरकार का ध्यान दिलाना चाहता हूँ उसके

बारे में बिहार के मुख्य मंत्री श्री लालू प्रसाद यादव जी ने बार-बार भारत सरकार को पत्र लिखा है और पांच चीजों के बारे में उन्होंने विशेष तौर से पत्र भेजा है। एक तो जो कोल इण्डिया के पास रायल्टी का पैसा है, जो बिहार सरकार का बकाया है, उसके बारे में। दूसरा है भारत सरकार के परिवार कल्याण विभाग ने बिहार को 206 करोड़ रुपये देना है, उसके बारे में बार-बार पत्र आया है। तीसरी बात, जो बिहार सरकार ने बार-बार कहा है कि कोयले पर जो स्वामित्व का दर है वह कोयले के वजन पर नहीं बल्कि कोयले के मूल्य पर उसका निर्धारण किया जाना चाहिये। चौथी बात यह है कि राष्ट्रीय राजपथ संख्या 2 जिसे शेरशाह सूरी पथ कहते हैं बिहार के मुजफ्फरपुर से हो कर आसाम तक जाता है, जो दो बड़े राष्ट्रीय राजपथ बिहार से हो कर गुजरते हैं, जो देश की परिवहन व्यवस्था के लिए सब से कारगर चीज है, उसकी मरम्मत के लिए, सुधार के लिए, विकास के लिए बिहार सरकार ने बार-बार आपसे मांग की है। पांचवी बात है उत्तरी करणपुरा सुपर विद्युत केन्द्र के कार्य को प्रारम्भ करने के लिए। मैं अधिक समय न ले कर केवल एक रेफरेंस देना चाहता हूँ। कोयले की रायल्टी का 237 करोड़ रुपये बिहार सरकार का भारत सरकार के पास बकाया था जिसके बारे में बिहार के मुख्य मंत्री श्री लालू प्रसाद जी ने 4-3-1993 को प्रधान मंत्री जी को पत्र लिखा जिसमें उन्होंने कहा है—

"Since they have already collected this amount on our behalf years ago, it is not desirable for them to retain this amount with them. You are aware of the difficult times we are facing with drought on the one hand and financial constraints on the other."

उपसभाध्यक्ष जी, प्रधान मंत्री ने अपने जवाब में 23 जनवरी, 1993 को बिहार के