

309 Resolution seeking approval [23 AUG. 1990] Under Article 356 of the 310  
of President's Prolamation Constitution in relation to  
J.&K.

THE DEPUTY CHAIRMAN : Now I put Clause 16 to vote. The question is :

"That clause 16 stand part of the Bill."

*The motion was adopted-Clause 16 was added to the Bill Clause 17 (Power to make rules).*

THE DEPUTY CHAIRMAN : There are three amendments to Clause 17. Are you moving your amendment Nos. 43,44 and 45, Mrs. Jayanthi Natarajan?

SHRIMATI JAYANTHI NATARAJAN : No, Madam, I am not Moving.

THE DEPUTY CHAIRMAN: Now I put Clause 17 to vote. The question is:

"That Clause 17 stand part of the Bill."

*The motion was adopted.*

*Clause 17 was added to the Bill.*

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

SHRIMATI USHA SINGH: Madam, I move:

"That the Bill be passed."

*The question was proposed.*

SHRI SUBRAMANIAN SWAMY: Madam,-

THE DEPUTY CHAIRMAN: You want to say something. Please speak, but be brief, please.

SHRI SUBRAMANIAN SWAMY: Madam Deputy Chairman, while supporting the Bill I would like to say that this country indeed can set

the standards for the world to follow, but the culture of this country is such that it gives women a position of power. In fact, in Lord Brahma's cabinet the three most important portfolios were held by women. Finance for Lakshmi, education for Saraswati and defence for Durga. Similarly, when the great debate took place between Mimdan Mishra and Sankara-charya, it was a woman who was the judge and who had a greater religious understanding. I would like to say that the debate may have created the impression that somehow this country is the worst as far as treatment of women is concerned, but if we went back to our traditions and culture, women would have easily attained equal power status than in any other country. Thank you.

THE DEPUTY CHAIRMAN: The question is—

"That the Bill be passed."

*The motion was adopted.*

**उपसभापति : मंत्री जी का पहला बिल पास हो गया । Congratulations.**

**श्री सुरेन्द्रजीत सिंह ग्रहलूवालिया धन्यवाद दे जाँए ।**

**श्रीमती उषा सिंह : धन्यवाद ।**

[The Vice-Chairman (Shri Shankar Dayal Singh) in the Chair]

**I. RESOLUTION SEEKING APPROVAL OF PRESIDENT'S PROCLAMATION UNDER ARTICLE 356 OF THE CONSTITUTION IN RELATION TO JAMMU AND KASHMIR.**

**II. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF ARMED FORCES (JAMMU AND KASHMIR) SPECIAL POWERS ORDINANCE, 1990.**

### III. THE ARMED FORCES (JAMMU AND KASHMIR) SPECIAL POWERS BILL 1990

THE MINISTER OF HOME AFFAIRS (SHRI MUFTI MOHAMMAD SAYEED): Mr Vice-chairman I move the following Resolution:

That this house approves the Proclamation issued by the President on the 18th July, 1990, under Article 356 of the Constitution, in relation to the State of Jammu and Kashmir.

Sir, copies of the Report of the Governor of Jammu and Kashmir and the Proclamation have been laid on the Table of the House. The Governor of Jammu and Kashmir issued a Proclamation on 19-1-1990 under subsection (5) of Section 19 (2) of the Jammu and Kashmir Constitution with the concurrence of the President of India thereby assuming to himself the functions of the Government and the legislature of the State and making one incidental and consequential provision. The State Assembly initially kept under animated suspension was dissolved by the Governor on 19-2-1990. The Proclamation issued by the Governor on 19-1-1990 was expiring on 18-7-90 at the expiration of six months. Under the Constitution of J and K there is no provision for further continuance of the Proclamation after expiry of six months from the date of issue of the Proclamation by the Governor. The Governor of Jammu and Kashmir in his report "dated 3-7-1990 sent to the President of India stated that the terrorist elements have stepped up their attacks on the security forces and continued to indulge in large-scale violence against innocent people. The quality of weaponry being used by the terrorists is also becoming more sophisticated and decisive to inflict injuries and damage. The Governor also stated that the terrorists have the support of subversive and secessionist elements and their forces across the border. The Governor has further added that the current situation in the State is not conducive to the holding

of early elections to the State Assembly. In the prevailing atmosphere of insecurity and fear generated in the State the traditional parties and other political elements are largely inactive and the people will not be able to freely exercise their franchise. As the State Assembly stands dissolved, it is not possible to constitute an elected Government. The Governor came to the conclusion that it would not be possible to carry on the governance of the State in accordance with the provisions of the Constitution of Jammu and Kashmir after the expiry of the Proclamation issued by the Governor. The Governor, therefore, recommended to the President to consider issuance of a proclamation under Article 356 of the Constitution of India.

The Central Government Considered the report of the Governor and the situation in Jammu and Kashmir and felt that there was no alternative but to issue the Proclamation under article 356 of the Constitution of India, as applicable to the State of Jammu and Kashmir, and promulgated President's Rule in the State. As such, Proclamation under article 356 of the Constitution was issued by the President on the 18th July 1990.

In view of the situation which I have just explained, I commend, Sir, that the Proclamation issued on 10.7.90. under article 356 of the Constitution in relation to the State of Jammu and Kashmir, be approved by this august House.

Sir, I also beg to move.

"That the Bill to enable certain special powers to be conferred upon members of the armed forces in the disturbed areas in the State of Jammu and Kashmir, as passed by the Lok Sabha be taken into Consideration."

Sir, public order in Jammu and Kashmir has been seriously disrupted due to the activities of the secessionists and militant elements, instigated and

militant, instigated and aided by the forces across the border. The secessionist movement, which became visible in violent form in April 1988, has grown considerably by the beginning of 1990, particularly due to the inadequacy of response from the administration. The action under the Governor's Rule from January 1990 substantially helped in asserting the authority of the State. The concerted and Coordinated efforts on the part of the State police and security forces for the last few months have yielded good results on the ground. The intensive combing operations and strengthened vigil on the border have indicated that such an operation would help in crushing the militants and curbing their movements. Recently, however, attacks on security forces and selective killings of innocent citizens have increased. With the advent of summer and the melting of snow, it was expected that crossing of the border by the militants and subversive elements along with arms and ammunition and explosives would substantially increase. There was also information of there being large concentration of trained militants on the other side of the board trying to infiltrate to participate in violent activities and further increase disruption of public order.

Under the circumstances, concerted and well-co-ordinated efforts by the State police and security forces to intercept the infiltrators and take action against the armed terrorists and to counter the designs of the secessionist elements became necessary. The Line of Actual Control is under the operational control of the Army. To enhance the capabilities of the security forces and the State police, it was also considered necessary to arm them with additional powers. As Parliament was not in session, an Ordinance that is, the Armed Forces (Jammu and Kashmir) Special Powers Ordinance, has been issued by the President on the 5th July 1990. The situation continues to be the same and the powers made available under

the Ordinance are sought for by the security forces to conduct operations successfully against the militants and secessionist elements.

The proposed legislation is framed on the model of the Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, with suitable amendments keeping in view the special status of the State of Jammu and Kashmir under article 370 of the Constitution.

The Governor of Jammu and Kashmir has already promulgated the Disturbed Areas Act in the State to confer special powers on the State police. The proposed legislation is placed before the House for consideration and passing.

*The questions were proposed.*

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): There are amendments by Shri Subramanian Swamy and Shri Jagdish Prasad Mathur. They may move their amendments at this stage without making any speech.

SHRI JAGDISH PRASAD MATHUR (Uttar Pradesh): Later on, will we get a chance to speak?

THE VICE-CHAIRMAN (SHRI SHANKAR DAYAL SINGH): Yes. But now, as you know, the External Affairs Minister is to make a statement.

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh): Mr. Vice-Chairman Sir, I beg to move.

"That after the said Resolution, the following be added namely:—

"That the House further resolves that the elections to the Jammu and Kashmir Legislative Assembly be held before November 1, 1990."

Sir, if I may say so, at this moment I am moving the amendment and then later on I would like to make a longer speech. The reason why I am moving this amendment is that by this amendment I am forcing the

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[Shri Subramanian Swamy]

Government to hold elections by a certain date. Now, already in Punjab they are not able to hold election. In Assam elections are not being held. Such situation is developing in other parts like Tamil Nadu. If in a State like Kashmir they are not able to hold elections after such a long time of using armed forces, CRPF and so, on, then we would lose our moral position with our own people as well as internationally. Therefore, the Government should be under some pressure from Parliament to hold elections. That is why I am moving my amendment. Later on I would like to speak in detail.

SHRI JAGDISH PRASAD MATHUR :

Sir, I beg to move:

That after the said Resolution the following be added, namely:—

'That the House further resolves that no steps be taken to revive the State Legislative assembly or to hold fresh elections till current terrorist activities are fully curbed.'

श्रीमान्, सौभाग्य है जो कुछ स्वामी जी ने कहा है उसके बिल्कुल उलट मेरा मुझाव है। मैं भी तीन वाक्य कहकर समाप्त कर दूंगा। जिस प्रकार से ... (व्यवधान) यही तो मोहब्बत का तक जा है।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
माथुर जी माफ करेंगे, आप वाक्य में केवल यह संशोधन कर लें कि इसके विपरीत है जो श्री सुब्रह्मण्यम स्वामी जी ने कहा है।

श्री जगदीश प्रसाद माथुर : मेरा भी उद्देश्य यही है और इनके कथन से बिल्कुल उलट है। यह प्रभाव डालना चाहते हैं सदन का कि वहां पर चुनाव कराये जायें। मैं सदन को आगाह करना चाहता हूं कि वहां पर इस समय चुनाव कराना या वहां पर किसी प्रकार से असेंबली को दोबारा जीवित करना अत्यंत असामयिक होगा, खतरनाक होगा क्योंकि "बत" वहां पर शांत मान है उस समय

तक कोई स्वतंत्र चुनाव नहीं हो सकते आतंकवादियों के प्रभाव की वन्दूक के नीचे, कोई मत नहीं दे सकता है। इसलिये चुनाव कराना अत्यन्त असामयिक होगा। इस बात को आगाह करने के लिए सदन को और देश को मैंने यह संशोधन दिया है। अगली बात जब आप इजाजत देंगे, तब कहूंगा।

*The questions were proposed*

श्री सुरेन्द्र जीत सिंह ग्रहलुवालिया (बिहार) :  
5 बजे उन्हें कुवैत पर स्टेटमेंट देना था, मेरा तो लंबा भाषण चलेगा।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
नो-नो, आप केवल अपना... (व्यवधान)

श्री सुरेन्द्रजीत सिंह ग्रहलुवालिया : नहीं केवल नहीं बोलना है, मुझे बोलना है, पूरा बोलना है क्योंकि मैं रिजोल्यूशन को डिस्एप्रूव कर रहा हूं।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
ठीक है।

श्री सुरेन्द्र जीत सिंह ग्रहलुवालिया : तो मैं अभी बोलूंगा न, आप बोलिये तो, मैं शुरू हो जाता हूं।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
लेकिन आप एक मिनट में ही समाप्त कर दें।

श्री सुरेन्द्रजीत सिंह ग्रहलुवालिया : 5 बजे अगर स्टेटमेंट नहीं हो रहा है तो मैं शुरू करता हूं।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
नहीं-नहीं ग्रहलुवालिया साहब, आप सुन लें। आप केवल अभी मूव कर दें, आपका भाषण होगा, केवल मूव कर दें।

श्री सुरेन्द्रजीत सिंह ग्रहलुवालिया : आई मूव बाई अमेंडमेंट। डिस् प्रूवल का मोशन मूव करता हूं और उसका कारण है मैं अभी शुरूआत कर देता हूं।

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) :  
कारण नहीं बतायें। कारण आप भाषण में बतायेंगे।

श्री सुरेन्द्रजीत सिंह ग्रहलुबालिया : उप-सभाध्यक्ष महोदय, जब आपने दोनों को बोलने का मौका दिया मुझे क्यों नहीं दे रहे हैं ? मैं दो टूक शब्दों में भाषण खत्म करूंगा । मैं उस पर वाद में बोलूंगा । मैं सीधी सी बात करता हूँ कि यह नेशनल फ्रंट गवर्नमेंट यह वही गवर्नमेंट है जिसने अपने मैनिफेस्टो में सिविल लिबर्टी की बात की है और कहा कि

civil liberties and human rights will be protected and strengthened, the 59th amendment of the Constitution, the Post and Telegraph (Amendment) Bill and other laws violative of civil liberties shall be withdrawn. Under-trials shall be safeguarded from harassment. The institution of Executive Magistrates wherever they exist shall be dispensed with. U. N. conventions against torture and those relating to prisoners and refugees shall be ratified and adopted. Suitable prison reforms will be under taken on a systematic basis.

जनता को जो बात कही है ... (व्यवधान)

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) : मैं केवल आपको मूव करने को कह रहा हूँ ।

श्री सुरेन्द्रजीत सिंह ग्रहलुबालिया : मैं इन्हीं चीजों को मदद नजर रखते हुये अपना मोशन मूव करता हूँ और मैं कल इस पर वाद में वक्तव्य रखूंगा ।

श्री अटल बिहारी वाजपेयी (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, यह कहने से काम नहीं चलेगा कि मैं मोशन मूव करता हूँ । ये पूरा मोशन पढ़ें ।

श्री सुरेन्द्रजीत सिंह ग्रहलुबालिया : मैं अपना मोशन पढ़कर सुना देता हूँ । अटल बिहारी जी सुनना चाहते हैं :—

Sir, I beg to move:

"That this House disapproves of the Armed Forces (Jammu and Kashmir) Special Powers Ordinances,

1990 (No. 3 of 1990), promulgated by the President of India on the 5th July, 1990."

Sir, it is against the manifesto of the National Front Government and in my eyes it is a black law, black law, black law.

उपसभाध्यक्ष (श्री शंकर दयाल सिंह) : पहले से निर्धारित कार्यक्रम के अनुसार एक्सटर्नल एफेयर्स मिनिस्टर, इंद्र कुमार गुजराल जी महत्वपूर्ण वक्तव्य आपके सामने पेश करने वाले हैं । मैं उनसे अनुरोध करता हूँ कि वे अपना स्टेटमेंट आपके सामने दें ।

STATEMENT BY MINISTER-  
EXTERNAL AFFAIRS MINISTER S  
VISIT TO MOSCOW, WASHINGTON,  
AMMAN, BAGHDAD AND KUWAIT IN  
THE CONTEXT OF GULF CRISIS

THE MINISTER OF EXTERNAL AFFAIRS  
(SHRI I. K. GUJRAL):

Mr. Vice-Chairman, Sir, as the august House is aware, I have been a on a tour of some of the major countries concerned with the present Gulf crisis during the last seven days. I would like to take this first available opportunity to give a detailed report to the House regarding the highlights of this tour which took me first to Moscow, then to Washington followed by visits to Amman, Bagdhad and Kuwait in that order. As Honourable Member are aware, my colleague, the Minister of Civil Aviation Shri Arif Mohammed Khan has also been just recently visiting several Gulf countries to see for himself the condition of Indians there, to make arrangements on the spot for the repatriation of distress cases, and to persuade the Governments of those countries to make available to us additional oil supplies. I am sure the House would like to express its appreciation of the effort that he has made and commend him for the success of that effort.