

SHRI YASHWANT SINHA: Are you getting out of an international commitment?

SHRI CHATURANAN MISHRA: In what way, the stand of the previous Government... (Interruption).

MR. CHAIRMAN: I have not called you. I have called Question No. 222 (Interruptions).

SHRI YASHWANT SINHA: The supplementary has not been answered.

MR. CHAIRMAN: I have called Question No. 222 (Interruptions). He has said categorically that you can be sure that this Government will not yield to any pressure from whatever quarter it may come.

SHRI DIPEN GHOSH: The question was very specific. What was the stand taken by the previous Government in the Geneva Conference and how the present Government proposes to go out of that commitment?

SHRI CHATURANAN MISHRA: In respect of a specific question... (Interruptions).

MR. CHAIRMAN: No. No Mr. Mishra, I have not permitted you I have passed on to Question No. 222.

SHRI YASHWANT SINHA: My supplementary has not been answered.

MR. CHAIRMAN: Mr. Sinha, you know the whole procedure. (Interruptions).

SHRI YASHWANT SINHA: My question has not been answered.

SHRI MURLIDHAR CHANDRA-KANT BHANDARE: The second question has been called. Let us obey the orders of the Chair.

MR. CHAIRMAN: Kindly understand that if there are some more facts which you want to find out, there is a procedure provided in the

Rules of Procedure. You can ask for a half-an-hour discussion. The matter ends there.

Q. No. 222.

- *222. [The questioner (Shri Jagadish Jani) was absent for answer vide col. 33-34 infra].

Setting up Benches of High Courts

*223. SHRI PASUMPON THAKIRUTTINAN

SHRI V. GOPALSAMY:†

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) the number of Benches of High Courts set up in the country during the Seventh Plan period;

(b) the location of each Bench and the year of its setting up;

(c) whether there is any proposal to set up more such Benches;

(d) if so, the details of each proposal and when each proposal was made; and

(e) what steps are being taken to implement these proposals?

THE MINISTER OF STEEL AND MINES WITH ADDITIONAL CHARGE OF THE MINISTRY OF LAW AND JUSTICE (SHRI DINESH GOSWAMI): (a) and (b) A permanent Bench of the Gauhati High Court was set up at Kohima, Nagaland in February, 1990.

(c) to (e) It is proposed to set up permanent Benches of the Gauhati High Court in Meghalaya, Manipur, Tripura and Mizoram, and a Circuit Bench in Arunachal Pradesh. A permanent Bench will be set up at Aizawl in Mizoram very soon. In other States the Benches will be set up as soon as necessary facilities are made avail-

†The question was actually asked on the floor of the House by Shri V. Gopalsamy.

able by the concerned State Governments, for which they are being regularly reminded.

SHRI V. GOPALSAMY: Mr. Chairman, Sir, I would appreciate the hon. Law Minister for the keen interest he has taken as far as Gaunati High Court and the North-Eastern States are concerned. But, Sir, his answer is very vague about the steps to be taken up to set up such Benches in other parts of the country. Sir, the Jaswant Singh Commission was set up on 4th September, 1981 to study the question of setting up of Benches of High Courts in various parts of the country and nearly after four years, it submitted its Report on 30th April, 1985, after spending an amount of Rs. 25 lakhs, but, Sir, no action has been taken yet. And now more than four and a half lakh cases are pending in Allahabad High Court and two lakh and fifty thousand cases are pending in Madras High Court. Nothing is said about setting up of a Bench in Madurai. The Jaswant Singh Commission has clearly recommended a Bench to be set up in Madurai, the southern part of Tamil Nadu and the hon. Minister is stating that the facilities should be made available by the State Governments concerned! Sir, the Tamil Nadu Law Minister has clearly stated on the floor of the Assembly that the facilities are already available, and the infrastructure is also available. The Government is prepared to provide all facilities. They have already corresponded with the Chief Justice of the Supreme Court. It is a long pending demand, for the past two decades, to set up a Bench at Madurai in Tamil Nadu. Therefore, I would like to get an answer from the hon. Minister what steps he is going to take regarding the setting up of a Bench in Madurai.

SHRI SUBRAMANIAN SWAMY: Sir, I fully support it. Madurai is the right place where it should be set up.

SHRI DINESH GOSWAMI: It is

true, Sir, that the Jaswant Singh Commission recommendation was that a Circuit Bench of one-third Judges of the Madras High Court should be set up at Madurai, for seven districts of the southern part of the State, namely, Kanniyakumari, Madurai, Tirunelveli, Pudukkottai, Thanjavur, Ramanathapuram and Tiruchi. The procedure that this Government has consistently followed is that the Government consults the Chief Minister and the Chief Justice of the High Court concerned because it can only take a decision after consultation. The Chief Justice has been of the view as has been reported to us by the Government of Tamil Nadu, that the Chief Justice is not inclined to favour the constitution of a Bench at Madurai. Now after that there has been an interaction through letters with the Chief Minister, letters were written giving fresh dates which were near about on 27-3-89, 31-5-89, 20-7-89 and 4-10-89. When we received the last letter on 2-10-89 stating that the Chief Justice was opposed to the idea of constitution of a Bench, I pointed out by a letter on February 8, 1990 that in Chapter 6 of the Jaswant Singh Commission Report it was stated that the then Chief Justice of the High Court did not seem to be averse to the idea of setting up of a Circuit Bench of the High Court. Now the permission for Circuit Bench of the High Court also depends upon the satisfaction of the Chief Justice that the infrastructural facilities have been made available to the satisfaction of the High Court. Therefore, I have addressed a letter on February 8 1990, drawing the attention of the Chief Minister to that particular portion of the Jaswant Singh Commission's recommendations which indicated that the then Chief Justice was not averse to the idea of setting up of a Bench of the High Court and also drawing his attention to the condition that infrastructural facilities to the satisfaction of the Chief Justice should be made available and to communicate back to us whether the infrastructural facilities to the satisfaction of the Chief Justice are available.

Unfortunately, I am waiting for a reply. I can only take a decision at my level after the reply has come. I would only request the honourable Member now to see that he sends to me as early as possible a reply from the State Government.

SHRI SUBRAMANIAN SWAMY: Sir, it is a shame that the State Government has not yet sent the reply... *(Interruptions)*...

SHRI V. GOPALSAMY: Sir, the honourable Minister has, of course, taken steps to provide Benches in the North-Eastern States of the Guwahati High Court.

MR. CHAIRMAN: He has given a clear reply to your question.

SHRI V. GOPALSAMY: Sir the former Chief Justice was of the view that because of the strength of the High Court, which was only 25 it was not adequate to set up a Bench in Madurai in Tamil Nadu. That was the view of the former Chief Justice of the High Court of Tamil Nadu. Now, the strength has to be increased from 25 to 32 because another seven posts have been sanctioned. In view of this, the Bench is to be set up at Madurai since the strength has been increased... *(Interruptions)*...

SHRI SUBRAMANIAN SWAMY: Sir, why has the State Government not sent the reply yet?... *(Interruptions)*...

SHRI G. SWAMINATHAN: Sir, the honourable Law Minister has sent several letters to the Chief Minister and is waiting for a reply from the State Government whereas Mr. Gopalsamy is telling only the old story... *(Interruptions)*...

MR. CHAIRMAN: So far as the question of setting up of a Bench in Madurai is concerned, he has given an exhaustive reply... *(Interruptions)*...

SHRI SUBRAMANIAN SWAMY: Sir, Madurai is my home-town and I find that the State Government is preventing this... *(Interruptions)*...

SHRI G. SWAMINATHAN: Sir, it is because of the State Government that we have to wait... *(Interruptions)*... and we have been waiting all this time... *(Interruptions)*...

SHRI V. GOPALSAMY: Sir, the number of the High Court Judges is going to be increased and also, the Sessions Court at Ramanathapuram is being shifted from Madurai to Ramanathapuram and, therefore, the Court hall, library and all other facilities are available there now. This has been indicated previously also. Our Government is prepared to provide all facilities there. Therefore, I would request the honourable Minister to take fresh initiative in the matter of setting up of a Bench at Madurai.

SHRI G. SWAMINATHAN: Sir, the honourable Law Minister wants a letter from the Tamil Nadu Government and not from Mr. Gopalsamy... *(Interruptions)*...

SHRI DINESH GOSWAMI: Sir, if at all I have been able to set up Benches of the Guwahati High Court in other places it is because I have been able to persuade the Chief Ministers there to provide the infrastructural facilities. Now, it is not the satisfaction of the State Government alone which is material so far as the infrastructural facilities are concerned. The High Court must be satisfied and it must feel that the infrastructural facilities have been provided to the satisfaction. I have written to them. If I get a reply from the Chief Minister and the High Court that at least the infrastructural facilities have been provided to the satisfaction of the High Court obviously I will take some decision on that.

MR. CHAIRMAN: Yes, Mr. Thakurttin.

SHRI PASUMPON THAKURTTIN: Sir, the honourable Law Minister has, in his reply, said that in other States the Benches will be set up as soon as necessary facilities are made available by the concerned

State Governments for which they are regularly reminded. So far as Tamil Nadu is concerned, the present Government in Tamil Nadu as well as the previous one has been continuously reminding the Central Government to set up a Bench of the Madras High Court in Madurai in Tamil Nadu. The infrastructural facilities have been made available. A Law College also is functioning. A building at a cost of Rs. 37 lakhs was also constructed in 1970 itself. So, the Tamil Nadu Government has been pressing the Government of India to set up a Bench at Madurai. I would like to know whether any decision will be taken shortly to set up a Bench at Madurai.

SHRI DINESH GOSWAMI: Sir, I have already replied. In fact, I will say that what I have written to the Chief Minister is: You may kindly let me know whether the High Court was assured that the necessary infrastructural facilities would be provided to the satisfaction of the Chief Justice." This is a letter dated 8th February 1990. I am waiting for a reply to that letter.

श्री सुरेश पचौरी : माननीय सभापति जी, मंत्री जी ने अपने उत्तर में मध्य प्रदेश में स्थापित की जाने वाली न्यायपीठों का उल्लेख नहीं किया है, जबकि यह बोला है कि राज्य सरकार यदि आवश्यक सुविधाएं दे दें तो विचार किया जा सकता है। मैं आपके माध्यम से मंत्री जी से जानना चाहूंगा क्योंकि मेरी जानकारी में है कि मध्य प्रदेश सरकार ने कुछ स्थानों पर न्यायपीठों की स्थापना की अनुशंसा की है, तो वहां कब तक न्यायपीठ खोल दी जाएंगी ?

दूसरा मेरा महत्वपूर्ण सवाल यह है कि क्या सारे देश की राजधानियों में आवश्यक रूप से सरकार यह विचार करने जा रही है; इस आवश्यकता को मद्देनजर रखते हुए कि देश की सभी राजधानियों में न्यायपीठ स्थापित की जाए ताकि अनावश्यक खर्च से बचा जा सके क्योंकि शासकीय अधिकारियों कर्मचारियों को यदि

राज्य की राजधानी में न्यायपीठ नहीं होती है तो अन्यत्र जाना पड़ता है और इस पर अनावश्यक रूप से शासकीय खर्च होता है। इस अनावश्यक खर्च को बचाने के लिए राज्यों की राजधानियों में आवश्यक रूप से न्यायपीठ हो इसे... (व्यवधान)

...

श्री सभापति : आपका प्रश्न हो गया।

श्री सुरेश पचौरी : मान्यवर बहुत महत्वपूर्ण बात है।

श्री सभापति : महत्वपूर्ण बात गहब हो चुकी।

श्री सुरेश पचौरी : इसको मद्देनजर रखते हुए क्या मध्य प्रदेश की राजधानी भोपाल में न्यायपीठ खोलने का विचार है ?

SHRI DINESH GOSWAMI: I know the anxiety of Members on these questions. Sir, the Madhya Pradesh Government proposed establishment of Benches at Bhopal and Raipur. The Jaswant Singh Commission examined the whole proposal and recommended that a Bench should be constituted at Raipur. There were some writ petitions filed in the High Court. Letters were written by my predecessors to the State Government asking for their definite views. I can give the dates. They were 21-9-88, 27.11.88, 12.1-89 and 3-3-89. In March, 1989, the Chief Minister says that the matter is being looked into. Again the Chief Minister is reminded on 30.5.89 and on 5.9.89. I have written to the Chief Minister that I want definite views as to here the Bench should be constituted, on 18.4.90. There is no reply. What can I do? I am waiting for replies. But replies do not come.

श्री सत्य प्रकाश मालवीय : माननीय सभापति जी बहुत दिनों से इलाहाबाद हाई कोर्ट की बेंच के सिलसिले में मांग चली आ रही है कि वहां पर पश्चिमी

जिले में बैच स्थापित हो। कुछ लोग इसका बहुत विरोध करते हैं कुछ लोग बहुत समर्थन करने हैं। मैं सिर्फ यह जानना चाहता हूँ कि उत्तर प्रदेश की जो वर्तमान सरकार है और जो वर्तमान चीफ जस्टिस हैं इलाहाबाद हाईकोर्ट के, इनके इस बारे में क्या राय है और इन्होंने इस बारे में केन्द्रीय सरकार से क्या लिखा-पढ़ी की है ?

SHRI DINESH GOSWAMI: Sir, the view of the Chief Justice of the Allahabad High Court has been that the constitution of a Bench is not necessary and in fact, it will dilute the importance of the High Court which is of 120 years' tradition. But there was a demand for a Bench in the western part and the matter was examined by the Jaswant Singh Commission also. The Commission recommended constitution of a Bench in Agra. This has been an emotive problem. Delegations have come to me asking for a Bench in Agra; delegations have come to me asking for a Bench in Meerut. I have also got faced back that there are members who are opposed to the Constitution of a Bench. Now, here also the same thing happens. In reply to the letter of June 26, 1987, the Chief Minister of U.P. said, "I will leave the entire matter to the Central Government. Let the Central Government decide." We have written back that it is not a matter on which the Central Government takes a decision and that the State Government must give a definite view. We have written on 25.7.87, 23.5.89 and 15-1-90. The last letter I have received from the Chief Minister is to the effect that the State Government is examining whether it should give its opinion at this stage or it should seek solutions after negotiations with the representatives of different sections of people or whether the constitution of a Bench should be considered in the context of the other problems engaging the attention of the people in the State. The problem has been

that I can act probably as the midwife or as doctor in delivering the child of the Bench but I cannot take the responsibility of the baby of the Bench. The responsibility must be taken by the State Government concerned. No State Government seems to be prepared to take the responsibility of the baby and is passing on the buck to me. I would like to have definite views of the State Governments whether they want Benches to be constituted and I will take my own decision after I get definite views. I will request hon. Members to persuade their own Governments to send definite views to me.

श्री शक्ति यांगो : माननीय सभापति जी, जसवंत कमिशन की जो सिफारिश है वह बार-बार आपके सामने सदन में आई है। मैं माननीय मंत्री जी से जानना चाहता हूँ कि इलाहाबाद के कुछ बड़े वकीलों का दबाव तो सेंट्रल गवर्नमेंट पर नहीं पड़ रहा है जिसकी वजह से आप पश्चिमी उत्तर प्रदेश में खंडापीठ की स्थापना में देरी कर रहे हैं।

इलाहाबाद के बड़े वकीलों का दबाव है, यह बात सुनी जा रही है। इसको आप बताएं। और कोई बामे नहीं है। जमीन बहुत है उत्तर प्रदेश में जहाँ चाहे आप बनाइए—मेरठ में, बुलंदशहर में देहरादून में, आगरा में कहीं भी बनाइए। यह बात आप बताएं।

SHRI DINESH GOSWAMI: I can assure the hon. Member that there has been no pressure from any important member of the Allahabad Bar and the Government will not act under pressure. But the State Government must tell us definitely where they want this Bench to be constituted and only after we get a definite view we can take our own decision. But the State Government will not tell us. Let the State Government tell us where they want the Bench, whether they want it at Agra, whether they want it at Meerut or they want it in both these places. The moment I get a positive

and definite view from the State Government, I am prepared to take a decision, whatever it may be. But if I do not get a definite view of the State Government, well, I am helpless. If the State Government wants to avoid the question and wants to pass on the baby to the Central Government, I think it is unfair and we are not prepared to take the responsibility of the baby. As I said, I am prepared to act as a doctor for delivering the baby, but the responsibility of the baby must be taken by the State Government.

(Interruptions).

SHRI GOPAL SINH SOLANKI: The question is about the introduction of High Court Bench. But I would like to ask the question through you, Sir, how many posts particularly are vacant in all the High Courts and whether the Government is going to adjust these from the original strength of the original High Courts or would create new posts?

SHRI DINESH GOSWAMI: Sir, the question relates to specific number of vacancies. I will require notice about this question. But at some point of time I may be keen to inform the House about this position. But at the present moment the figures are not available with me.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: Let us have half-an-hour discussion on this.

SHRI DINESH GOSWAMI: I do not mind.

SHRI N. K. P. SALVE: Sir, in view of the fact that over 2 lakh tax matters are pending in different High Courts by way of reference, by way of appeal and by way of writ matters, the erstwhile Finance Minister and the present Prime Minister had promised that he would establish a National Court of Direct and Indirect Taxes. The States are passing on the buck to him outside the House and he is passing on the buck to the States in the House. Now here is something for which the responsibility rests with

the Central Government. Persistently they have said that they would establish...

MR. CHAIRMAN: This is about Benches of the High Court,....

SHRI N. K. P. SALVE: If you wait, the next sentence was: the National Court of Direct and Indirect Taxes to direct the High Courts and Supreme Court about the jurisdiction on tax matters...

MR. CHAIRMAN: This is about Benches of High Court. That will not be a Bench of the High Court Isn't it?

SHRI N. K. P. SALVE: Sir, Let me complete my question. If you let him escape....

MR. CHAIRMAN: Put a supplementary question, not...

SHRI N. K. P. SALVE: I will put it in another way. In view of the fact that High Courts are unable to deal with or cope up with two lakhs tax cases which are pending, when is the Government going to take up the establishment of a National Court of Direct and Indirect Taxes?

MR. CHAIRMAN: The question is about the Benches of High Courts Question No. 224.

Reappraisal of Asian Development Bank's lending strategy to India

*224. **SHRI MAHENDRA PRASAD:**

SHRI MURLIDHAR CHANDRAKANT BHANDARE:

Will the Minister of FINANCE be pleased to state:

(a) whether it is a fact that the Asian Development Bank is presently making a major reappraisal of its lending strategy to India; and

The question was actually asked on the floor of the House by Shri Murlidhar Chandrakant Bhandare.