

## RAJYA SABHA

Monday the 5th August, 1985 | 14 Shrawana,  
1907 (Saka)

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

### MEMBER SWORN

Shri V. Narayanaswamy (Pondicherry)

### OBITUARY REFERENCE

MR. CHAIRMAN: I refer with profound sorrow to the passing away of Shri Banarsi Das, a former Member of this House from Uttar Pradesh.

Shri Banarsi Das was born in July, 1912, at Utraoli village in District Bulandshahr of Uttar Pradesh. Shri Banarsi Das had his education at Bulandshahr. He gave up his studies and plunged into the freedom movement at the young age of 16 years and suffered imprisonment several times for his active participation in the Non-co-operation Movement and the struggle for Swaraj. Shri Banarsi Das, a well-known political figure in his home State, was first elected to the Uttar Pradesh Legislative Assembly in 1946 and was its Member till 1967. He served as Parliamentary Secretary from 1952 to 1957 and as a Minister in the State Cabinet from 1962 to 1967. He was elected to the Rajya Sabha in April, 1972, and in 1977, he acted as the Protem Chairman of this House. He resigned his seat in the Rajya Sabha in June, 1977 on his election to the Uttar Pradesh Legislative Assembly where he later on became its Speaker. In 1979, Shri Banarsi Das became the Chief Minister of that State. He was also a Member of the Lok Sabha during 1983-84.

A dedicated social worker, Shri Banarsi Das worked for the spread of education, particularly women's education and established a number of schools. He fought against social disparities and worked for the uplift of the backward classes.

775 RS—1.

With his quiet manners, dignified behaviour and persuasive skill, he made an enduring impression on all those who came into contact with him. In his death the country has suffered a grievous loss.

We deeply mourn the passing away of Shri Banarsi Das.

I request Members to rise in their places and observe a minute's silence as a mark of respect to the memory of the departed.

[Honourable Members then stood in silence for one minute]

MR. CHAIRMAN: Secretary-General will convey to the members of the bereaved family our sense of profound sorrow and deep sympathy.

MR. CHAIRMAN: We shall now take up Questions. Question No. 181. Mr. Bhuvnesh Chaturvedi.

### ORAL ANSWERS TO QUESTIONS

#### Vacancies in the High Courts and the Supreme Court of India

\*181. SHRI BHUVNESH  
CHATURVEDI:†

SHRI N. E. BALARAM:

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

(a) the number of judges appointed during the current year up-to-date in various High Courts in the country; and

(b) the number of vacancies in the various High Courts and also in the Supreme Court and the dates since when each vacancy has been there?

THE MINISTER OF LAW AND JUSTICE (SHRI ASOKE KUMAR SEN):

(a) During the current year up to 31-7-1985, fresh appointments of 16 permanent

†The question was actually asked on the floor of the House by Shri Bhuvnesh Chaturvedi.

Additional Judges were made, and 4 Additional Judges were appointed as permanent Judges, as per details in Statement-I which is laid on the Table of the House. (See below)

(b) As on 1-8-1985, there were 2 vacancies of Judges in the Supreme Court.

These arose on 9-5-1985 and 12-7-1985.

As on 1-8-1985, there were 60 vacancies of Judges in various High Courts. The dates from which these vacancies are lying vacant are given in the Statement 'II' which is laid on the Table of the House. (See below)

#### Statement-I

##### Appointments made from 1-1-1985 to 31-7-1985 in various High Courts

S.No.	High Court	Fresh appointment of		Additional Judges made Total permanent
		Permanent Judges	Addl. Judges	
1. Kerala		..	2	2 ..
2. Jammu and Kashmir		..	1	1 1
3. Delhi		..	1	1 1
4. Rajasthan		7	1	8 ..
5. Bombay		3	..	3 ..
6. Punjab and Haryana		1	..	1 ..
7. Allahabad		..	..	.. 1
8. Gujarat		..	..	.. 1
		11	5	11 4

#### Statement-II

(Position as on 1-8-1985)

S.No.	Name of the High Court	Vacancies		Dates from which vacancies shown in col. 3 have arisen
		Permanent	Additional	
1	2	3	4	5
1. Allahabad		8	6	15-10-1984 15-10-1984 15-10-1984

1	2	3	4	5
				15-10-1984
				15-10-1984
				6-11-1984
				15-11-1984
				16-1-1985
				7-2-1985
				9-6-1985
				1-7-1985
				1-7-1985
				7-7-1985
				17-7-1985
2. Andhra Pradesh	.	5	2	26-11-1982
	.			29-11-1982
	.			1-7-1983
	.			8-4-1984
	.			5-7-1984
	.			10-10-1984
	.			8-4-1985
3. Bombay	.	1	3	28-11-1983
	.			29-11-1983
	.			24-5-1984
	.			18-3-1985
4. Calcutta	.	4	..	6-9-1984
	.			1-10-1984
	.			1-11-1984
	.			1-7-1985
5. Delhi	.	..	1	12-3-1985
6. Gauhati	.	2	1	21-11-1984
	.			15-11-1984
	.			14-5-1985
7. Gujarat	.	..	3	7-6-1984
	.			26-6-1984
	.			2-4-1985
8. Jammu and Kashmir	.	1	..	10-9-1984

1	2	3	4	5
9.	Karnataka . . . . .	1	..	January, 1985
10.	Kerala . . . . .	1	1	28-4-1984 13-6-1984
11.	Himachal Pradesh . . . . .	..	..	..
12.	Madhya Pradesh . . . . .	1	1	2-11-1982 15-6-1985
13.	Madras . . . . .	7	..	29-12-1981 9-2-1983 12-9-1983 15-9-1983 22-10-1983 25-1-1984 1-6-1985
14.	Orissa . . . . .	1	..	16-7-1984
15.	Patna . . . . .	3	..	9-9-1984 28-11-1984 12-1-1985
16.	Punjab and Haryana . . . . .	6	..	29-11-1983 16-1-1984 26-3-1984 14-5-1984 1-8-1984 24-5-1985
17.	Rajasthan . . . . .	..	..	..
18.	Sikkim . . . . .	1	..	4-1-1985
TOTAL		42	18	
GRAND TOTAL		60		

**SHRI BHUVNESH CHATURVEDI:**  
Mr. Chairman, Sir, I understand that two Judges of the Supreme Court have already taken up the work of Commissions appointed by the Union Government. Two

more are likely to take up such assignments, and three more Judges will be retiring this year. In that case there will be vacancies of seven Judges in the Supreme Court and 60 Judges in the High

Courts. I would like to know whether they have some planning to fill up these vacancies in advance otherwise they take a year or so for filling up these vacancies.

**SHRI ASOKE KUMAR SEN:** There is no vacancy when a sitting Judge is appointed on a Commission. We are planning to increase the number of Supreme Court Judges in view of these difficulties and also in view of the tremendous increase of work in the Supreme Court. We are proposing at the moment to increase it to 30. In due course we shall be bringing before the House a Bill for increasing the number of Judges in the Supreme Court, because it requires legislation to increase the number.

**SHRI BHUVNESH CHATURVEDI:** It is widely believed that enough talent from the Bar is not attracted towards these assignments. Has the Government any plan to increase the benefits or the perquisites of High Court Judges and Supreme Court Judges to attract the talent from the Bar?

**SHRI ASOKE KUMAR SEN:** Sir, it is true that the salaries which were fixed in 1950 have been criticized on all hands, and particularly on the floor of the Lok Sabha and also here some time back. The Government is considering this question very seriously and in the next Conference of Chief Justices and the Union Law Ministers, which is due to be held on the 31st August, this question will be taken up very prominently.

**MR. CHAIRMAN:** Mr. Balaram, Absent. Mr. Gurupadaswamy.

**SHRI M. S. GURUPADASWAMY:** Sir, there is also a considerable delay in appointing Judges as a result of which cases are pending in the High Courts and the Supreme Court. May I know, Sir, whether effective steps are being taken by the Government to see that these vacancies are filled up at least this year? All vacancies should be filled up by the end of this year. Is the Government

also considering the problem of transfer of the Judges of High Courts from one High Court to the other? That is causing a lot of heart burning. Has any fresh decision been taken in this regard to see that as far as possible the Judges of the States are posted in the High Court there itself, without being transferred?

**SHRI ASOKE KUMAR SEN:** Sir, there are two different questions altogether. With regard to the appointment of Judges quickly as and when vacancies occur, I entirely agree with the hon. Member that there should be no delay. The longer the time taken for filling up the vacancies and allowing the gap to remain unfilled, the more will be the accumulation of work in the High Courts. That is why we have tried our very best at least ever since we have come, the new Government, to expedite the appointments throughout. The difficulty is that the different processes have to be gone through. First of all, the names originate from the Chief Justice of the local High Court. It goes to the State Government, and in case there is any difference between the two the thing remains buried for quite some time for a dialogue between the Chief Justice of the local High Court and the Government. In many cases I have tried to resolve it myself. And then when it comes to us we send it to the Chief Justice of India. And in several cases, I can tell the hon. Member, after I have given the Chief Justice has not found it possible to accept some of the recommendations and it has to go back to the Chief Justice of the local High Court. In this process some time is taken up. In many cases, the Chief Justice's recommendations have been accepted by the local High Court, for instance, where Senior District Judges were passed over by the junior District Judges. And the ordinary rule followed is that we should not normally ignore seniority unless there are circumstances of an overweighing nature. These are the circumstances which may cause delay in appointments. I entirely agree that we must find a way out and appoint Judges so that as soon as the vacancy occurs, there is an incumbent ready to take over.

**SHRI M. S. GURUPADASWAMY:** Why don't you anticipate the vacancies?

**MR. CHAIRMAN:** Supplementary to supplementary is not allowed.

**SHRI ASOKE KUMAR SEN:** Anticipation applies to the local Chief Justice or the local Government. We are trying to expedite that also. With regard to transfer of Judges, it is really a question of transfer of Chief Justices from one High Court to another. In January, 1983 it was decided by the Cabinet and fully endorsed by the Consultative Committee of all parties at that time that normally all Chief Justices should be appointed from outside. The reasons were explained on the floor of the House. I don't want to repeat them now. As and when the occasion arises, we will do so again. That is being followed. With regard to the Judges, the policy has been—not that we have been able to implement it, but it is only a policy aimed at—that for the purpose of national integration and unity, we should try to have at least one-third of the Judges of every High Court from other States. The difficulties are stupendous. Not many are willing even to serve even in their own States. Not many are willing to go to different States. Therefore, it has not been possible to find one-third of the Judges of several High Courts from other States. As a norm, it still remains as a policy adopted by the Government and endorsed, I think, by both the Houses. This is the position.

**SHRI KAPIL VERMA:** Sir, Allahabad High Court is the biggest High Court in the country and the number of cases pending is probably the largest. So, when are the vacancies going to be filled there? The Jaswant Singh Commission has recommended the setting up of a Bench in the western districts and has also mentioned the names of places where it should be set up. When is the Government going to set up the Bench?

**SHRI ASOKE KUMAR SEN:** These are different questions.

**MR. CHAIRMAN:** Shri Upendra.

**SHRI PARVATHANENI UPENDRA:** The statement indicates that some of these vacancies are about 4 years old. They have been vacant since 1981. This is the case of Madras High Court. In Andhra Pradesh High Court, the vacancies are three years old. The Minister's answer is not very satisfactory and the reasons he has given are not plausible. I would like to know from the Minister why it is not possible to prepare panels in advance for the vacancies a year ahead when the retirements become due. Secondly, there is a feeling that these delays are occurring because the Government is looking for more committed Judges. Will the Minister agree with this impression or is there anything wrong with what I am saying?

**THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ):** I would put the record straight. In the case of Tamil Nadu, the boot is on the other leg. The local Government has not cleared any names so far. Three District Judges were recommended and we have already processed their cases for appointment.

**SHRI THINDIVANAM K. RAMA-MURTHY:** One sixth of the vacancies are in Tamil Nadu, seven out of the 42 permanent vacancies. Will the Government think of getting the local Ministry here and having a discussion with them? The Minister has said that the State Governments send a panel and when there is a discussion, it has to be sent back once again for clarification. In view of the number of vacancies that are existing and in order to avoid it, will the State Governments be called here and will the discussions be held with the Chief Minister or the representatives of the State Governments? The pendency of the cases is the maximum in Madras High Court and these vacancies also contribute to the pendency.

**SHRI ASOKE KUMAR SEN:** A vacancy is the cause of accumulation of arrears. We are quite aware of it. But

we cannot order about the State Governments, as the hon. Member thinks we should. It is much better to have a dialogue with the State Government than trying to be overbearing. If this problem has to be solved, we have to think of the incumbents well in advance before the vacancy occurs. We are going to discuss this matter specifically in the next Conference.

**SHRI S. W. DHABE:** Sir, Statement-I placed on the Table shows the number of vacancies filled in and Statement-II shows the number of vacancies that exist. Are the vacancies exclusive of the appointments made? Sir, I find from the Statements that the vacancies in Andhra Pradesh and Madhya Pradesh are from 1982. Therefore, I would like to know what action has been taken by the Ministry so that they can fill up the vacancies within three to six months. From 1982 onwards these vacancies are there. Hardly 16 vacancies have been filled in. Therefore, against this backlog, may I know from the hon. Minister whether there is any time schedule to remove this backlog and to make appointments within three to six months.

**SHRI ASOKE KUMAR SEN:** Sir, it is very difficult to fix a time schedule excepting to hope that all the parties which are involved in this process will act in such a manner that the vacancies are filled well in advance. But that has not been found possible. Ever since I have come, I have tried to expedite. But then difficulties are at all levels. And we have to find out some means by which at all levels we may expedite the process and see that the vacancies are filled well in advance.

**MR. CHAIRMAN:** Mr. Bansal.

**SHRI S. W. DHABE:** My question has not been answered...

**SHRI PAWAN KUMAR BANSAL:** Mr. Chairman, Sir, with the setting up of Administrative Tribunals some of the sitting judges of the High Courts are likely to go over as Members of those Tribunals which, I feel, would further aggravate the situation regarding the vacancies in the various

High Courts, I would want the Minister to tell this House as to what the Government intends to do in that case and whether it is going to take up...

**MR. CHAIRMAN:** Hypothetical. Mr. Gopalsamy.

**SHRI V. GOPALSAMY:** Mr. Chairman, Sir, according to the statement given by the Minister, there are seven vacancies within the sanctioned strength of 25 in the Madras High Court. According to another statement of the hon. Minister on 29th July this year, the cases pending in the Madras High Court alone are; 31,830 which are three-year old; 8,059 which are five-year old; and 1200 which are ten year-old. And the total number of cases pending in all the 18 High Courts is 5,71,511. Sir, is it a fact that the President of the Madras Bar Association has filed a writ petition to direct the Government of India and the Government of Tamil Nadu to expedite the matters to fill up the vacancies? Sir, justice delayed is justice denied. So, I would like to know from the hon. Minister under these circumstances as to what steps he has taken to fill up the vacancies in the Madras High Court.

**SHRI H. R. BHARDWAJ:** Sir, the number of vacancies, namely seven vacancies in Tamil Nadu is alarming. And we have decided that notwithstanding the silence of the State Government we will proceed with the appointments. A writ petition was filed in the Madras High Court. And there we have filed a counter. So far as the Union of India is concerned, we are prepared to appoint the Judges straightaway. But the question is that would be setting up a bad precedent ignoring the recommendation of the State Government. We have now decided that so far as the Judicial Officers are concerned, their appointments will go ahead. There are three of them. Then there is a Lady Judge's appointment about which the State Government was pressing too much and we have relented on that.

**MR. CHAIRMAN:** Mr. Mitra.

**SHRI S. W. DHABE:** I want to know whether the Union Minister and the State

Minister can reply to the alternate supplementaries.

MR. CHAIRMAN: They can. You are a senior Member of the House. You should know the procedure.

SHRI SANKAR PRASAD MITRA: Mr. Chairman, Sir, I want to know whether the hon. Law Minister proposes to set up a machinery to investigate into the general reputation of persons who are recommended for appointment. My reasons for putting this question are three: Firstly, in recent times, various disturbing newspaper reports have appeared challenging the integrity of some of the Judges of the Supreme Court and of High Courts. Secondly, two Judges of the Supreme Court who have taken an oath to the Constitution have gone outside addressing law seminars and. . .

MR. CHAIRMAN: Question not allowed.

SHRI SANKAR PRASAD MITRA  
All right, Sir.

Then third point is ever since the supersession of three judges of the Supreme Court, there is a propensity among some judges. . .

MR. CHAIRMAN: Not allowed.

श्री चतुरानन मिश्र : सभापति महोदय, जो सूची सरकार की ओर से दी गई है वैकेंसीज की उपमें 12 ऐसे वैकेंसीज हैं जो 1981, 1982 और 1983 की हैं। मैं स्पेसिफिक रीजन्स जानना चाहूंगा कि इन तीन वर्षों की वैकेंसीज क्यों पेंडिंग हैं।

श्री हंसराज भारद्वाज : श्रीमान्, जब कोई रिपोर्ट आती है किसी हॉई कोर्ट से या राज्य सरकार से...

श्री चतुरानन मिश्र : स्पेसिफिक रीजन्स

श्री हंसराज भारद्वाज : जिस प्रकार से सिफारिशें आती हैं उनको लागू नहीं कर सकते जब तक उनमें यनीफार्मिटी न हो जाय। और जो ये बेस 81-82 के पेंडिंग हैं ये एडीशनल जर्ज के बारे में हैं क्योंकि सुप्रीम कोर्ट ने कहा था कि कोई एडीशनल एपॉइंटमेंट न करे जब तक परमानेंट वैकेंसीज भर न लें। पहले हमने एडीशनल जर्ज को परमानेंट बनाया है। इसलिए एडीशनल जर्ज की तादात बढ़ाती रहती है, वे वैकेंसीज पेंडिंग रह जाती हैं। पहले परमानेंट एपॉइंटमेंट करेंगे, फिर एडीशनल और फिर उसके बाद एड हाक पर विचार करेंगे।

\*182. [The questioner (Shri Santosh Kumar Sahu) was absent. For answer vide Cols. 41-42 infra]

Decreased production of essential drugs by Glaxo

\*183. SHRI MIRZA IRSHADBAIG:  
SHRIMATI MAIMOONA  
SULTAN:†

Will the Minister of CHEMICALS AND FERTILIZERS be pleased to state:

(a) whether Government's attention has been drawn to the article captioned 'In Harm's Way' which appeared in the *Illustrated Weekly* of the 7th July, 1985;

(b) if so, whether it is a fact that Glaxo has discontinued or decreased production of essential drugs as these products fall under lower mark up of 40 per cent to 55 per cent, and it increased the production of non-essential products because higher or unlimited mark ups are allowed thereon;

(c) what was the production and sales turn over of whooping cough vaccine, Insulin, Triple Antigen, Procaïn Penicillin Injections, Diphtheria and Tetanus Vaccine, Crystapan V, Comycin-S, Anti-Catarrh Vaccine, during the last three years, pack-wise, production-wise and year-wise along

†The question was actually asked on the floor of the House by Shrimati Maimoona Sultan.