

Notifications of the Ministry of Agriculture (Department of Food)

MISS KAMLA KUMARI: Sir, I also beg to lay on the Table a copy each (in English and Hindi) of the following Notifications of the Ministry of Agriculture (Department of Food), under sub-section (b) of section 3 of the Essential Commodities Act, 1955:—

(i) G.S.R. No. 379(E), Ess. Com./Sugar, dated the 28th May, 1981, publishing the Sugar (Price Determination for 1980-81 Production) Third Amendment Order, 1981. [Placed in Library. See No. LT-2708/81].

(ii) G.S.R. No. 427(E), Ess. Com./Sugarcane, dated the 3rd July, 1981, publishing the Sugarcane (Control) Amendment Order, 1981.

(iii) G.S.R. No. 440(E), Ess. Com./Sugar, dated the 17th July, 1981, publishing a corrigendum to G.S.R. No. 370(E), Ess. Com./Sugar, dated the 28th May, 1981. in Library. See No. LT-2676/81 for (ii) and (iii).

RE. LAYING OF THE ORDINANCE ISSUED BY THE GOVERNOR IN RELATION TO THE STATE OF ASSAM

SHRI PILOO MODY (Gujarat): You asked him to wait till the Papers were laid. Now you are looking around.

MR. CHAIRMAN: Yes, Mr. Sezhiyan.

SHRI ERA SEZHIYAN (Tamil Nadu): Sir, I raise a point of order. Yesterday an important issue came when the following three motions were taken into consideration in this House—(1) The Resolution on the Presidential Proclamation dated 30th June, 1981, on Assam; (2) The Budget (Assam) 1981-82; and (3) the Appropriation Bill connected thereto. These three motions were taken up at

4.27 P.M. and three hours were allotted for their consideration. At the beginning, as soon as the motions were moved, points of order were raised. Earlier, Mr. Dinesh Goswami, myself and others had given it in writing about this and we were given the opportunity. My plea is that it is a fundamental matter of a serious nature. The objection that we raised is, because there is an Ordinance issued by the Governor of Assam ...

MR. CHAIRMAN: The House has heard it. I have read it.

SHRI ERA SEZHIYAN: I wanted to say this because sometimes the Chair is not very well informed.

MR. CHAIRMAN: I have read it. The House has heard it.

SHRI ERA SEZHIYAN: The question is whether the Ordinance issued by the Governor should be placed on the Table of the House or not. My contention and the contention of the House on this side is that it is a constitutional obligation. Without its being laid on the Table of the House it is not full. Otherwise, these extraordinary powers given to the executive can be misused and abused.

MR. CHAIRMAN: That is all right. (Interruptions)

SHRI ERA SEZHIYAN: This observance of a constitutional obligation has been given a go by. Therefore, we raised the issue. Even now, I feel the issue is still alive, that the Ordinance issued by the Governor, under constitutional obligation, be placed on the Table of the House. (Interruptions)

MR. CHAIRMAN: I have understood it. I have had a long discussion ...

SHRI DINESH GOSWAMI (Assam): I have got a valuable right to express my disapproval to the Ordinance. I have given to the Secretariat a notice of disapproval under

the relevant provisions of the Constitution. I do not know why that notice has not been circulated. That notice is a valid notice because when the President has said that under the Proclamation the Parliament will be the State legislature so far as article 213 is concerned, I have got the valuable right and I want to exercise it. How can the executive disregard that and why will this Parliament not permit me to exercise that right? I want a ruling on that particular point also. My notice is pending.

MR. CHAIRMAN: Two points have been raised. (*Interruptions*) Just a minute. I cannot give a ruling off-hand like this. The whole point is that the Ordinance has not been laid on the Table of the House and whether it is incumbent to lay it on the Table of the House. Now ...

SHRI PILOO MODY: Kindly listen to all the Members and then you may give the explanation, whatever you want to give.

MR. CHAIRMAN: I am gathering the points. If you do not want me to do that, I will not be able to apply my mind.

SHRI DINESH GOSWAMI: My point is ...

MR. CHAIRMAN: I have got your point.

SHRI B. N. BANERJEE (Nominated): Sir, two or three points of order were raised yesterday. They were constitutional points and, maybe, on very important issues. But one must remember—and the Opposition contains a galaxy of very experienced and seasoned parliamentarians—that Mr. Shyam Lal Yadav, the Deputy Chairman, who was in the Chair, decided the points of order and, I must say—please don't think I am saying anything in impolite language—it is not within your power to revise or review that ruling given by Mr. Yadav.

MR. CHAIRMAN: I have always expressed that opinion.

SHRI B. N. BANERJEE: But if on a future occasion, some point like this is raised, it is quite open to you to give your own views. But to say that, well, yesterday points of order were raised and to raise the matter over again ...

SHRI DINESH GOSWAMI: We have not done that.

MR. CHAIRMAN: Let me explain...

SHRI B. N. BANERJEE: When you get an opportunity ...

MR. CHAIRMAN: Let me explain to Mr. Banerjee. (*Interruptions*) Not all of you. I cannot answer all of you. Just a minute.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): Nobody wants that you should revise the ruling.

MR. CHAIRMAN: I have said it again and again in this House that whoever occupies this Chair speaks not only for himself but for me. It would be no end of trouble if every ruling given from the Chair, whether it be by him, or by Mr. Kulkarni, or by Dr. Rafiq Zakaria...

SHRI PILOO MODY: Even that has become a convenience. We ask the Chair to rule and the Chair normally tell us, "the Chairman has not said anything about this to me; so I cannot give a ruling on the matter". This cannot be used as a convenience. When it suits you, you give a ruling; when it does not suit you, you don't give a ruling. At times authority is delegated; at other times the authority is not delegated. It cannot go on like this.

MR. CHAIRMAN: There is a certain... (*Interruptions*). Just listen to me. The point which has been raised... (*Interruption*)

SHRI LAL K. ADVANI (Gujarat): Sir, Mr. Banerjee has just now raised the point that because the ruling was given by the Deputy Chairman, to lay you cannot revise it. You just now said very rightly that if the Deputy Chairman gives a ruling; it is as if you are giving the ruling. But if after he has given the ruling, you feel that there has been some lapse, you are always at liberty, you are fully entitled to revise that ruling and come forth to the House.

MR. CHAIRMAN: I have studied it... (Interruptions) I have studied the whole thing. In fact, yesterday I have a lot of representations. You were not there. The whole thing was explained to me. I got hold of the entire record of the proceedings and the other papers which Mr. Goswami was pleased to give me. I have studied them. I have got in my pocket somethings which I decided (Interruptions)

SHRI PILOO MODY: Kindly refer to it.

MR. CHAIRMAN: I thought if there is a new point, I shall certainly look into it. This is what...

SHRI RAMAKRISHNA HEGDE (Karnataka): There are certain new points.

SHRI B. N. BANERJEE: Sir, I have been misunderstood. I do not take much time of the House. What I meant to say was that this is based upon all precedents in this House that when Mr. Shyam Lal Yadav gives a ruling from the Chair, it does not come as your delegate...

MR. CHAIRMAN: Mr. Banerjee, there are many people in this House who think that they know the procedure of Parliament better. Come to my house and I will show you every important case in England summarised, in my own handwriting. Come over just now with me. I will show you how many hundreds of cases I have summarised.

SHRI B. N. BANERJEE: Sir, there are hundreds of rulings in this House and the other House.

MR. CHAIRMAN: I read the full proceedings. (Interruptions) Just one minute. First on Mr. Goswami and Mr. Shahi... (Interruptions) Now I will hear everybody.

SHRI PILOO MODY: Please read it. It is better

MR. CHAIRMAN: I do not and cannot express an opinion on the disputed points so far raised for three simple reasons. One, whatever is decided by the Chairman for the time being in the Chair binds the House; I have no appellate or revisionary powers; and there will be no end to things if I interfere with the rulings from the Chair. That is point No. 1. The second reason is even more potent. When the matter was on, the Deputy Chairman could have conferred with me or other colleagues of ours. But now the matter has passed into quite a different stage, what we lawyers call, this House is *functus officio*, it has finished with its work. The Bill has been returned to the Lok Sabha. We cannot recall it. Our House has finished with it. Therefore, the Bill must stand as it has been dealt with in this House. Some other tribunal, if you want to go to another tribunal, may be able to rule on your contention, but no one in this House can rule upon what has been done in this House yesterday. The third reason is that there is a pendency of proceedings in the High Court. Some points are being agitated in parts; more points may probably be annexed. I, therefore, do not think it is necessary for me to give a ruling on what has been said up till now by Shri Sezhiyan and by Shri Goswami. If there is anything else, I will be ready to hear you.

SHRI NARASINGHA PRASAD NANDA (Orissa): Sir, I have to make a new point.

MR. CHAIRMAN: I think this has gone on quite enough. (*Interruptions*) Mr. Advani I will hear.

SHRI LAL K. ADVANI: Mr. Chairman, I was not here yesterday.

MR. CHAIRMAN: Nor was I.

SHRI LAL K. ADVANI: I have only listened to and read some of the proceedings yesterday. I will refer only to the Constitution because, so far as the parliamentary procedure is concerned this House can waive all the rules with your consent, so far as the parliamentary practice is concerned, we can disregard the practice and the House can condone it; it is within our power. But, so far as the Constitution is concerned, it is not within our power, not within the powers of the House, not within your powers also...

SHRI PILOO MODY: ...gr of the Deputy Chairman.

SHRI LAL K. ADVANI: ... to disregard. And I hold that under article 213 any Ordinance promulgated has to be laid on the Table of this House; there is no exception whatsoever.

MR. CHAIRMAN: May I tell you that on the point...

SHRI LAL K. ADVANI: Let me complete.

MR. CHAIRMAN: You may complete this point. Whether the Ordinance must be laid on the Table of the House is something I would like to apply my mind to.

SHRI LAL K. ADVANI: Let me complete, Sir.

SHRI PILOO MODY: You apply your mind when the argument is going on.

MR. CHAIRMAN: No. The arguments have been going on for two days.

SHRI PILOO MODY: No, Sir, the arguments are beginning.

SHRI LAL K. ADVANI: Sir, I am not at all referring to the Appropriation Bill that has been passed and rushed through this House by majority and sent to the other House. (*Interruptions*) What I want to say that unless the Ordinance was laid on the Table of the House, it should not have been done. The provision that it shall be laid on the Table of the House has not been met with and, therefore, it is open to you, without going into what happened yesterday, to order the Government, to direct the Government to place a copy of the Ordinance on the Table of the House. You are not revising any judgment, not at all, but you are merely going by the Constitution and finding that something happened which is an obvious lapse on the part of the Government you are wanting to correct it. I see no reason why this kind of prolonged debate should have gone on. It should have been immediately ordered today itself.

SHRI PILOO MODY: Is it negligence or arrogance?

MR. CHAIRMAN: I will have to see what has been ruled by my colleague.

SHRI DINESH GOSWAMI: Sir, may I make one thing clear? (*Interruptions*) Sir, I want to make one thing clear. I do not want that you should re-open yesterday's ruling in the sense that we cannot discuss the Appropriation Bill that we have passed. My contention yesterday was that the Appropriation Bill cannot be discussed without the Ordinance being laid. That point has been over-ruled. That has been discussed. But independently I am raising this point. Under article 213 the obligation to lay the Ordinance is there. Therefore, I submit that this is a new point on which we pray for your ruling.

MR. CHAIRMAN: Mr. Advani has also said the same thing. Let us hear the expert on law.

SHRI SANKAR PRASAD MITRA (West Bengal): My point, Sir, is that

[Shri Sankar Prasad Mitra] while giving the ruling the Deputy Chairman did not take into consideration the combined effect of sub-articles (2) and (3) of article 213 of the Constitution. Therefore, Sir, it may be that the House is *functus officio* so far as the Appropriation Bill is concerned. But for the future kindly make it clear that that ruling would not be followed and you are prepared to reconsider the matter on that basis.

MR. CHAIRMAN: I see the point which you are raising, Mr. Mitra. You are raising the same point which Mr. Advani made, in another shape.

SHRI SANKAR PRASAD MITRA: No, Sir. Kindly look to sub-article (3) of article 213. That is all the more reason why the House should have an opportunity of discussion on the Ordinance. There may be provisions in the Ordinance, which are void.

MR. CHAIRMAN: I am going to look into it for future. (*Interruptions*)

SHRI NARSINGHA PRASAD NANDA: I have a new point to raise. I will not reopen the question which was raised yesterday since the Deputy Chairman has already ruled on it.

MR. CHAIRMAN: The Deputy Chairman said that the Ordinance died after four months and that there was no point in laying the dead body on the Table of the House.

SHRI NARASINGHA PRASAD NANDA: That was absolutely wrong. In any case we are bound by it. The Deputy Chairman was entitled to give his ruling. (*Interruptions*)

SHRI RAMAKRISHNA HEGDE: How bad was the ruling?

MR. CHAIRMAN: I am not giving a ruling. I am only saying what he ruled.

SHRI NARASINGHA PRASAD NANDA: I am making a new point, Sir. You will kindly notice that you are not only the custodian of this House but you are also the custodian of the Constitution and the Parliamentary institution. After the points were made, most of the Opposition Members walked out, asking that this discussion should be held today. I am not saying that the Bill can be brought back and discussed. But, Sir, through you, I would appeal to the Leader of the House to see that the ruling party does not behave like this with the Opposition and take advantage of its absence on a very genuine ground which was put before the House—we rushed to your House to find out if any justice can be done—and rush through the Bill in 10, 20 minutes. It is not good for democracy.

MR. CHAIRMAN: You should have brought the Bill with you to my House.

SHRI NARSINGHA PRASAD NANDA: I deplore the way it was done. I submit very respectfully, Sir, that the Leader of the House...

MR. CHAIRMAN: I am quite prepared to consider one point, whether Ordinance of this type should still be laid on the Table of the House...

SHRI NARSINGHA PRASAD NANDA: It has to be laid. There is no question of not laying it.

MR. CHAIRMAN: ...though my colleague, in his judgment, felt that it cannot now be laid on the Table of the House. If I reach the same conclusion, there will be an end of the matter. (*Interruptions*) Listen, If I reach a contrary conclusion, I would not over-rule it; I will bear it in mind, and on future occasions...

SHRI RAMAKRISHNA HEGDE: I am sorry to say that what happened in this House yesterday in your absence was nothing short of a criminal

assault on the Constitution. The ruling party has done an unpardonable act. I am sorry to say that the Deputy Chairman was in complicity. You have a responsibility to safeguard the Constitution here.

MR. CHAIRMAN: I thought it could have been an assault on the Constitution but not a criminal assault.

SHRI RAMAKRISHNA HEGDE: It is rape, nothing short of rape.

SHRI ERA SEZHIYAN: Sir, this is important. As was rightly said by the previous speaker, we are not here worried about or raising the issue of appropriation. The Bill has been passed. Three or four hours we had. At 5.00 o'clock we could have adjourned, and today, we could have passed it. This has been done by the House. The House is supreme in whatever it does. About this point... (Interruptions)

SHRI NAGESHWAR PRASAD SHAHI: Sir, one minute. मैं दूरे मरने पर कहना चाहता हूँ।

SHRI ERA SEZHIYAN: Sir, if you read the Presidential proclamation, such placing on the Table is specifically required because the Presidential proclamation suspends the proviso to sub-clause (1) and the proviso to sub-clause (3) of article 213, but not sub-clause (2) of article 213. So sub-clause (2) of article 213 should be implemented. That is why that has expressly been put here. Otherwise they would have suspended that also.

MR. CHAIRMAN: Provisos to (1) and (3) have not been applied but (2) has been kept intact?

SHRI ERA SEZHIYAN: Yes, (2) has been kept in tact. (Interruptions)

MR. CHAIRMAN: I think we have had enough debate on this. While the ruling of my brother, my colleague stands, I shall examine the matter on the question of laying the Ordinance on the Table of the House but not so as to overrule my Deputy Chairman... (Interruptions)

SHRI RAMAKRISHNA HEGDE: Why not? ... (Interruptions)

MR. CHAIRMAN: ... but for guidance in future. (Interruptions)

SHRI NAGESHWAR PRASAD SHAHI: Sir, one minute. Another point. आप बैठ कर हारें।

लंजिये

SHRI PILOO MODY: I propose a vote of thanks to you for staying for 21 minutes more today. (Interruptions)

MR. CHAIRMAN: I think you can go for him now.

(MR. DEPUTY CHAIRMAN in the Chair).

SHRI ARVIND GANESH KULKARNI (Maharashtra): Sir, I have one submission to make. (Interruptions)

MR. DEPUTY CHAIRMAN: Mr. Advani.

SHRI ARVIND GANESH KULKARNI: Sir, one submission...

MR. DEPUTY CHAIRMAN: After Mr. Advani.

Re. Notice of Breach of Privilege against Shri C. M. Stephen, the Minister of Communications.

SHRI LAL K. ADVANI (Gujarat): Sir, before you enter upon the list of Business according to the order of priority, it is my privilege motion that needs to be taken up. I have given notice of a privilege motion against Mr. C. M. Stephen, Minister of Communications and, with your consent, I would like to raise this matter today in this House. Sir, it is a matter of serious concern. Though I am personally involved and, therefore, I have some personal knowledge about it, I think it is a matter of concern for the entire House, in fact, for the entire parliamentary institutions. And what has amazed me