

या पशुओं के शवों को फेंकना अपराध घोषित किया जाय । और मेरा तीसरा सुझाव है कि सभी कारखानों के गन्दे पानी का उपयोग बांध बना कर सिंचाई के काम में किया जाय और कारखानों के गंदे जल को किसी भी नदी में न डाला जाय ताकि गंगा जैसी नदी पवित्र रह सके और इस तरह की गंदगी से बच सके ।

STATEMENT BY MINISTER

Setting up of an Expert Committee to study the financial implications of the proposal for inclusion in the list of declared goods and for levy for Additional Excise Duty in lieu of Sales Tax on certain commodities

श्री योगेन्द्र शर्मा (बिहार) : मेरा प्वाइंट आफ ऑर्डर है। मेरा व्यवस्था का प्रश्न यह है कि मंत्री महोदय एक ऐसी बात के बारे में सदन में बयान कर रहे हैं जो कि स्टेट का विषय है । श्रीमन्, आप को मालूम है कि बिक्री कर जो है वह राज्य का विषय है और 7वें शेड्यूल की बी लिस्ट में वह है । तो अभी जो बयान मंत्री जी पढ़ने जा रहे हैं वह इस बारे में है कि सेल्य टैक्स के बजाय एकमाइज ड्यूटी लगाने के लिए कोई कमेटी बने । तो ऐसा विषय कि जो कांस्टीट्यूशन के अनुसार स्टेट का विषय है उस के बारे में जब तक कांस्टीट्यूशन में हम कोई अरेडमेंट नहीं करते तब तक उस के बारे में मंत्री जी यहां कोई बयान नहीं दे सकते । इस पर मैं आप की व्यवस्था चाहता हूं । और दूसरी बात . . .

श्री उपसभापति : आप मेरी बात तो सुन लीजिए । या बहुत ही चलते रह्यो ।

श्री योगेन्द्र शर्मा : आप मेरा आर्गुमेंट सुन लें ।

श्री उपसभापति : आप पूरा भाषण देंगे तो उसमें टाइम लगेगा । आप ने उन की बात सुनी नहीं और अपना प्वाइंट आफ ऑर्डर उठा दिया ।

श्री योगेन्द्र शर्मा : हमे लोगों को जो नोटिस दिया गया है . . .

MR. DEPUTY CHAIRMAN: Unless you hear this statement, don't put forward your arguments. You have raised one point.

श्री योगेन्द्र शर्मा : नोटिस में कहा गया है कि

Notice for levy of Additional Excise Duty in lieu of Sales Tax on certain commodities.

MR. DEPUTY CHAIRMAN: Please take your seat. He is going to announce regarding the setting up of an Expert Committee to study all these things that you have been saying. His statement will clarify all these objections that you are raising. If you hear him first, many of your apprehensions will be removed. After he makes the statement, if you want to say anything, you can say. Hear him first.

श्री शिव चन्द्र झा (बिहार) : श्रीमन्, मेरा प्वाइंट आफ ऑर्डर है । श्रीमन्, स्टेटमेंट के लिए लिखा गया था कि 2 बजे स्टेटमेंट देंगे . . .
(व्यवधान)

श्री उपसभापति : 2 बजे सदन नहीं बैठे था ।

श्री शिव चन्द्र झा : 2 पी० एम० के पहले आपने एंजॉर्न कर दिया ।

[श्री शिव चन्द्र झा]

मैं आपसे जानना चाहता हूँ कि आपने ऐलान किया कि साढ़े तीन बजे या 3-35 पर स्टेटमेंट होगा ? हम लोग 2 बजे तक बैठे रहे इस उम्मीद पर कि स्टेटमेंट होगा। आपने ऐलान नहीं किया और चले गये ... (व्यवधान)

श्री उपसभापति : कौन चला गया ?

श्री शिव चन्द्र झा : मैं व्यवस्था चाहता हूँ कि क्या आपने सदन में ऐलान किया कि कितने बजे स्टेटमेंट होगा ? ... (व्यवधान)

श्री उपसभापति : माननीय सदस्य, मैं समझता हूँ, अनावश्यक व्यवस्था का प्रश्न उठाते हैं। सदन 2 बजे नहीं बैठा था। स्पेशल मेशन जब हो गया तो अब उसके बाद स्टेटमेंट दे रहे हैं। आप बैठ जाइये, मैंने बता दिया।

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI SAWAI SINGH SISODIA): Sir, on behalf of the Finance Minister, I beg to make the following statement:

Sir, as the House is aware, there has been a widespread and long-standing demand by various Chambers of Commerce, associations of industry and trade and the general public for basic reforms in the sales tax system obtaining in the country. The matter has also figured in both the Houses of Parliament from time to time.

2. Sir, as sales tax is primarily a State subject of taxation under the Constitution, any reform in the sales tax system can be undertaken only in consultation with and with the co-operation of the States. I had, therefore, convened a conference of Chief Ministers and Ministers incharge of sales

tax in September, 1980, and as a follow-up again in February, 1981 to discuss the problem in all its aspects. The Conference held in February, 1981 adopted a Resolution recommending appointment by the Central Government of an Expert Committee headed by an eminent person qualified to be a Chairman of the Finance Commission and with an Economist and an Administrator as members to study the financial implications of the proposal for inclusion in the list of declared goods and for levy of additional excise duty in lieu of sales tax on vanaspathi, drugs and medicines, cement, paper and paper board and petroleum products and the manner in which the financial interests of the States can be safeguarded. The States of Jammu and Kashmir, Kerala and West Bengal, however, recorded their dissent.

3. I am happy to announce that in pursuance of the aforesaid Resolution, the Government have decided to appoint an Expert Committee under the Chairmanship of Shri Mohan Lal Sukhadia M.P. and with Dr. P. H. Prasad, Professor of Economics, Anugrah Narain Sinha Institute of Social Studies, Patna, as Economist-Member. Shri N. V. Krishnan, presently Joint Secretary (Plan Finance), Ministry of Finance, will be Administrator-Member and Member-Secretary of the Committee.

4. The terms of reference of the Committee will be:

(i) to study the financial implications of the proposal for inclusion in the list of declared goods and for levy of additional excise duty in lieu of sales tax on vanaspathi, drugs and medicines, cement, paper and paper board and petroleum products and the manner in which the financial interests of the States can be safeguarded;

(ii) to suggest necessary changes in the relevant Central and State

tax laws to give effect to the Committee's recommendations; and

(iii) to make recommendations regarding any other related matter.

5. The Committee will evolve its own procedure for its work and may for the purpose of its study call for such information as may be necessary from the Central and State Governments.

6. The report of the Committee will be placed before a Conference of Chief Ministers to be called for this purpose.

7. The Resolution appointing the Committee is being issued.

SHRI NARASINGHA PRASAD NANDA (Orissa): Sir,...

SHRI YOGENDRA SHARMA: Sir, ... (Interruptions).

MR. DEPUTY CHAIRMAN: One by one please. Yes, Mr. Nanda. Now you know the scope.

SHRI NARASINGHA PRASAD NANDA: Sir, the only point that I would like to make is about the main contention that the Chief Ministers were called by the Finance Minister and most of the Chief Ministers agreed to examine the financial implications of the abolition of sales tax at least in respect of certain items, which are mentioned in the statement. My first point is, you will kindly notice, about item 54 of the Seventh Schedule of the Constitution, which relates to tax on sale and purchase of items of goods, which is sales tax, which is admitted in the statement. Now, one point, as was pointed out by Mr. Sharma, is whether the constitution of such a committee to examine the financial implications by the Central Government is permissible under the Constitution. I have my own doubts about it. Therefore, I would like the hon. Minister to explain to us whether this does not constitute a constitutional im-

propriety, if not a total invalidity, I mean the step to constitute this committee. Secondly, Sir, this scheme is likely to seriously affect the financial resource of the State Governments. I would like to know what were the points of objection raised by the States of Jammu & Kashmir, Kerala and West Bengal on this issue on the constitution of this expert committee and I would like to know whether before taking this decision of constituting a committee the view or the opinion expressed by these State Governments was taken into consideration by the Government and what were those objections.

MR. DEPUTY CHAIRMAN: This is a matter of detail. That has been considered. (Interruptions). This is an obvious thing. The objection was there but the majority wanted and they have constituted the committee. (Interruptions). So, what do you want to know?

SHRI NARASINGHA PRASAD NANDA: What were the objections? (Interruptions)

SHRI ERA SEZHIYAN (Tamil Nadu): It is not before us how the State Chief Ministers agreed to the proposal. We do not know that. But I want to put it on record that this may be a step in the wrong direction to further erode the already limited resources of the States. This will act in a very harsh manner against the States. The scope of the States to mobilise financial resources is already very limited and sales tax constitutes one of the main avenues (Interruptions). Therefore, I want...

MR. DEPUTY CHAIRMAN: The States have agreed for this committee.

SHRI ERA SEZHIYAN: My apprehension is that it will affect the capacity of States to mobilise financial resources. He has said that it will be put before the Chief Ministers again. Instead of enlarging resources of the States this will be a retrograde step.

[Shri Era Sezhiyan]

And the States agreeing to it means their own funeral. (Interruptions).

MR. DEPUTY CHAIRMAN: I think the Chief Ministers will look into all these things (Interruptions).

श्री जगदीश प्रसाद माथुर : (उत्तर प्रदेश) : उपसभापति जी, यह एक प्रकार से उचित दिशा में कदम हो सकता है यदि ठीक प्रकार से इम्प्लोमेंट किया जाए...

श्री उपसभापति : अभी इम्प्लोमेंट कहाँ किया जा रहा है। अभी तो जांच होने के लिए कमेटी बनाई जा रही है।

श्री जगदीश प्रसाद माथुर : अगर हुआ तो मैं कह रहा हूँ। मैं जानता हूँ यह चुनाव तक चलेगा। मैं जानता हूँ यह हथकंडा है। मैं यह जानना चाहता हूँ कि इन्होंने कमेटी के टर्म ऑफ रीफरेंस में सेल्स टैक्स में वनस्पति, ड्रग्स, सोमेट और पेपर बोर्ड तक हो सोमित रखा है। वाकी जो चीजें हैं जिनमें सेल्स टैक्स में इतना ही इम्प्लोमेंटेशन है उनको इसमें इक्लूड क्यों नहीं किया गया ?

SHRI SYED SHAHEDULLAH (West Bengal): Sir, this thing has been opposed by several State Governments continuously. There was already a proposal made by the Government of India in several ways and forms but all of them were resented to by the State Governments. Now, the thing end of the wedge that has been sought to be introduced by constituting a committee is just to negate the provisions of the Constitution, as explained by Mr. Nanda. This thing is just sought to be introduced, and I would request the Minister to place before us the

entire proposal in this regard leading to the setting up of this Committee. I think the State Governments did not suggest a setting up of this Committee.

SHRI GULAM MOHI-UD-DIN SHAWL (Jammu and Kashmir): Mr. Deputy Chairman, I vehemently oppose the very move to set up such a Committee. We know it for certain that as far as our State is concerned, it has got very meagre resources. There was a meagre sum of overdraft and the Central Government is yet to think about it whether to give it or not to give it. As far as this particular point is concerned, the resources of our State should be taken into consideration and particularly compared to other States, it is an under-developed State. Now, the Central Government wants to curb the right of levying sales tax. As far as the hon. Minister is concerned, he has not said what the objection was from the State Governments. He ought to have considered that point first, and if it means that he is overruling the objection from the State Government, it is very unfortunate, and we oppose it.

श्री योगेन्द्र शर्मा : मान्यवर, मंत्री महोदय ने हम लोगों को बताया है कि इस देश के बड़े-बड़े व्यापारियों और संगठनों की मांग पर यह कदम उठाया जा रहा है। उन्होंने यह भी बतलाया है कि कुछ स्टेट मिनिस्टर्स को भी पूछा गया है। मेरा एनराज इस बात पर नहीं है।

श्री रामानन्द यादव (बिहार) : आपने अपने मैनीफेस्टो में तो यह कहा था कि सेल्स टैक्स को हटा दिया जाय।

श्री योगेन्द्र शर्मा : मेरा एनराज इस बात पर है कि सेल्स टैक्स एक स्टेट सबजेक्ट है और हमारे कांस्टिट्यूशन का जो सातवां शेड्यूल है उसके लिस्ट बी में 54 जो एंट्रीज हैं उनको आप देखिए।

MR. DEPUTY CHAIRMAN: There is no dispute for that,

श्री योनेन्द्र शर्मा : उसमें डिस्ट्रिब्यूट नहीं है, यह ठीक है। लेकिन मैं समझता हूँ कि जब तक कांस्टिट्यूशन के इस प्रोविजन को एमेन्ड नहीं किया जाता है तब तक यह बैकडोर एन्ट्री है और चोर दरवाजे से स्टेटों के कांस्टिट्यूशनल राइट्स पर एन्क्रोचमेंट करने का काम है। जब तक कांस्टिट्यूशन के इस प्रोविजन को एमेन्ड नहीं किया जाता है तब तक किसी भी आदमी के कहने पर या किसी भी बाड़ो के कहने पर आप सेल्स टैक्स को एक्साइज ड्यूटी में नहीं बदल सकते हैं। लेकिन जहाँ तक मेरिट का प्रश्न है, आप जानते हैं कि सेल्स टैक्स स्टेट का सबसे बड़ा वित्तीय साधन है, उसके ऊपर यह हमला है। दूसरे इसके जरिए से भारत को जनता पर टैक्स का बोझ बढ़ाया जाएगा। इस बारे में कोई दो रायें नहीं हो सकती हैं। मेरा एतराज इस बात पर है कि जब तक आप कांस्टिट्यूशन के सातवें शेड्यूल की बी लिस्ट का एमेन्ड नहीं करते हैं तब तक आप इस दिशा में आगे नहीं बढ़ सकते हैं, लेकिन अगर आप आगे बढ़ते हैं तो यह कांस्टिट्यूशन के प्रोविजन का वायलेशन है।

SHRI DINESH GOSWAMI (Assam): Sir, I am on a different point. I do not feel that Constitution comes in the way of setting up a Committee. But my point is that the Chief Ministers of the majority of States might have agreed to the setting up of a Committee. But we are a Council of States, and before any Committee was set up which was to discuss about the major Constitutional amendments, the House ought to have been taken into confidence and the opinion of the

House ought to have been taken. If the opinion of the House is not taken on matters which dilute the very important powers of the States, why are we here then? This proposal should not have come as *fait accompli* saying "We have already decided to set up a Committee". The Government before setting up a Committee should have come to us and told us that majority of the States want to set up a Committee and how the House, which is the Council of States and upon whom rests the right to protect the Constitutional interests of the States, will react to it. And if the House would have approved then, it would have been proper on the part of the Government to set up the Committee and that would have been the correct state of affairs. I feel, the right of this House has been grossly eroded by the Finance Minister by setting up this Committee, without having consultations in this House. And this is the foremost objection I take.

And may I point out, in this connection, that whatever may be the response of my State, I strongly oppose this move to take away the powers of the States so far as sales-tax is concerned and we will continue to oppose this move?

SHRI V. GOPALSAMY (Tamil Nadu): Mr. Deputy Chairman, Sir, in no uncertain terms, on behalf of the DMK, I would like to register my strongest protest against this sinister move of the Central Government to trample upon the rights and powers of the States. Sir, the State Governments have already been clamouring for more financial powers, because, their financial resources are already very much limited. This move of the Central Government is to stifle the State Governments and also to make the State Governments puppets, to be at the mercy of the Central Government always. Not only that. The views of Parliament, the views of the House, should have been taken into consideration. In this connection, I would like

[Shri V. Gopalswamy]

to say that the right of Parliament to express its views has been taken away and the Central Government has not taken Parliament into confidence.

श्री शिव चन्द्र झा : उपसभापति महोदय एक मिनट, लिखकर नोटिस दिया है ।

श्री उपसभापति : प्रश्न हो गये, कुछ तो सन्तोष रखिये ।

श्री शिव चन्द्र झा : ऐसा नहीं है, आप व्यवस्था रखें कि . . .

श्री उपसभापति : व्यवस्था जब आप चाहे दें . . . (व्यवधान) . . .

श्री शिव चन्द्र झा : कुछ क्लेरीफिकेशन मांगते हैं, बैठ जाइये मंत्री जी आप ।

श्री उपसभापति : आपकी गैर-हाजिरी हम लोगों को बहुत खलती रही ।

श्री शिव चन्द्र झा : जो आप यह चाहते हैं कि एक्सपोर्ट कमेटी बैठा करके और यह जो कम्पलीकेशन है सेल टेक्स को एक्साइज बनाने में तो क्या यह बात नहीं है कि झा कमेटी की जो रेकमंडेशनस हैं, इनमें से ये सब बातें आ गई हैं और आपने उसको अभी तक इम्प्लीमेंट नहीं किया है . . . (व्यवधान) . . .

श्री हुस्मदेव नारायण यादव (बिहार) : मेरी अर्ज केवल इतनी है कि जिन चीजों पर सेल टेक्स पहले हटा दिया गया है और एक्साइज लगा दिया गया है, उसका बकाया राज्य सरकारों

को भुगतान नहीं किया जा रहा है । तो यह क्यों नहीं भुगतान हो रहा है और क्यों, उनका हक मारा जा रहा है ?

SHRI SAWAI SINGH SISODIA: Sir, the Government is quite concerned and is aware of many of the points which have been raised here just now by hon. Members. Sir, this is not the proper time to go into the details and discuss and debate all those points. But since you have allowed them and they have raised their points, I would like to reply briefly to those points.

Sir, first of all, one important objection which has been raised by many hon. Members is that this will erode the resources of the States. Sir, this is not the stage at which this can be emphasised. This is because, this Committee has been constituted mainly for this purpose, with a view to studying the financial implications of the proposal. Financial implications mean the amount, the levy, which the State Governments are receiving and in lieu of this, what will be the arrangement, after this thing is accepted by the Chief Ministers, by the Government of India and by this House. Whatever changes will be decided, these will be brought before the House, these will be discussed at length and only when they are approved by this House, these changes will be effected. Therefore, there is no question of Constitutional propriety which arises here. The Government is quite aware of it. When this Committee gives the report, this report will be placed before the Chief Ministers of various States, and after their recommendations, the Government of India will take a decision. After taking the decision, if it is found that it is proper, then, the Government will come forward with definite proposals, a Bill before both the Houses and a proper proposal for a change. There should not be any doubt or fear in their minds that . . . (Interruptions)

SHRI YOGENDRA SHARMA: The cat is out of the bag. (Interruptions) The objective is to bring about a Constitutional amendment. (Interruptions)

SHRI V. GOPALSAMY: Only for this purpose, this Committee has been appointed. (Interruptions) The Finance Ministry has already taken a decision. It is for this purpose... (Interruptions)

SHRI SAWAI SINGH SISODIA: There should not be any fear that anything will be done to deprive any State of their earnings or levy which they are collecting otherwise. Therefore, there should not be any fear. It will be done with their consent, with their suggestions and all those proper suggestions will be implemented and will be taken into consideration.

Sir, therefore, the various points which have been raised by the hon. Members are... (Interruptions)

SHRI V. GOPALSAMY: That is why Mr. Sukhadia has been appointed—a correct person to take the same decision which has been taken by the Finance Minister.

MR DEPUTY CHAIRMAN: That matter is over now. We go to the next item.

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) AMENDMENT BILL, 1981

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR (SHRIMATI RAM DULARI SINHA): Sir, I beg to move:

“That leave be granted to introduce a Bill further to amend the Industrial Employment (Standing Orders), Act, 1946.”

The question was proposed.

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra): Sir, I have given a notice on this. I want to oppose its introduction.

As regards the Industrial employment (Standing Orders) Amendment Bill, 1981, I am telling you my objections. I shall not take much time. This attempt to bring piecemeal legislation is not desirable and I oppose it.

श्री शिव चन्द्र झा : मेरा एक व्यवस्था का प्रश्न है। मुझे भी इस पर कहना है।

SHRI SHRIDHAR WASUDEO DHABE: It was originally understood by the entire working class that a comprehensive Industrial Relations Bill will be brought and it will cover all the three legislations: the Industrial Employment (Standing Orders) Act, 1946, the Indian Trade Unions Act of 1926 and the Industrial Disputes Act of 1947. Without mentioning any policy on all these matters, about the trade union legislation, collective bargaining, strike and other matters, this Bill has been brought forward.

My other objection is that it is a piecemeal effort. The Industrial Employment (Standing Orders) Act, 1946, the Trade Union Act and the Industrial Disputes Act—all require revision. This should have been a comprehensive Bill, at least about the Industrial Employment (Standing Orders). In this Bill, only one or two, provisions have been made. The main objection is, when the management does not provide Standing Orders or does not frame them under the Industrial Employment (Standing Orders) Act, 1946, the only provision for breach is a penalty with fine. In one State Act, it has been provided that the Model Standing Orders should be a part of the legislation so that in the absence of the framing of Standing Orders by the management, they should automatically apply. Therefore, I oppose the Bill.

MR. DEPUTY CHAIRMAN: Yes, Shri Shiva Chandra Jha.

श्री शिव चन्द्र झा : मैं इस विधेयक का विरोध करता हूँ।