

Mr. A. B. Shah was promoted in the middle part of 1980. Six months are not complete.

SHRI VIKRAM MAHAJAN: During the pendency of the inquiry also we do not promote officers normally.

MR. CHAIRMAN: Time was taken out. As regards the assessment of punishment, it was Bernard Shaw who said that the punishing officer should first be sent to jail so that he can see what the punishment is like.

SHRI SHIV SHANKAR: Does it equally apply to Judges also?

MR. CHAIRMAN: He said about Judges, not about Members of Parliament.

SHRI VIKRAM MAHAJAN: So far as his case is concerned, he was promoted in October 1980, not within six months.

*286. *[The questioners (Shri Shrikant Verma and Dr. Lokesh Chandra) were absent. For answer vide col. 37—39 infra.]*

Liberalization of divorce law

*287. SHRI SHIVA CHANDRA JHA: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that the Central Government are considering to enact a law for the liberalization of divorce;

(b) if so, what are the details thereof; and

(c) what is the total number of divorces which took place under the present Marriage Act within the last two years in the country and in the big cities of Delhi, Bombay, Calcutta and Madras?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHIV SHANKAR): (a) Yes, Sir.

(b) The Law Commission of India has forwarded to the Government in April, 1978, its 71st Report on the question whether irretrievable breakdown should be introduced as a ground of divorce into the Hindu Marriage Act, 1955. The Report was laid on the Table of the Rajya Sabha on 11th May, 1978.

The Commission has recommended insertion of a new Section 13(c) in the Hindu Marriage Act, under which a petition for a dissolution of a marriage by a decree of divorce may be presented to the Court by either party to a marriage on the ground that the marriage has broken down irretrievably. However, the Court will not hold the marriage to have broken down, irretrievably unless it is satisfied that the parties to the marriage have lived apart for a continuous period of at least 3 years immediately preceding the presentation of the Petition.

SHRI S. W. DHABE: The hon. Minister should have laid it on the Table of House—a long statement.

SHRI VASANT SATHE: He is ending it..

SHRI SHIV SHANKAR: It is not a very long statement.

SHRI S. W. DHABE: It is a very long statement.

SHRI SHIV SHANKAR: You do not have the patience to hear. As I said, the 1971 Report was laid on the Table of the Rajya Sabha way back in 1978. My friend is saying that it should be laid now.

The Commission has also recommended that if the wife is the respondent, a decree for divorce on the ground of irretrievable breakdown of marriage shall be refused or the proceedings stayed, if the court, on a consideration of all the circumstances, comes to the conclusion that the dissolution of marriage would result in grave financial hardship to the wife. Certain provisions may have also been made to safeguard the interests of

minor and handicapped children and widowed daughters.

(c) The information is being collected from the State Governments and Union Territories and will be laid on the Table of the House after it has been received.

श्री शिव चन्द्र शा : सभापति महोदय, आप जानते हैं कि हमारे देश में डावरी की वजह से सती की एक लहर चल रही है और ऐसी परिस्थिति में यह अच्छा होता कि जहाँ डावरी न मिलने की वजह से ब्राइड तंग हो जाती है और नौबत मरना तक आ जाती है वह मरने और मारने की हालत में आ जाती है। इसलिए मैं यह जानना चाहता हूँ कि डावरी के कारण हमारे देश में ऐसी जो शादियाँ हैं जिनमें परेशानी पैदा होती है उनमें अंत हेपीनेस न हो उसके लिए आप जो अपने नये लिबेलाइजेशन बिल में प्रोविजन बनाने जा रहे हैं उसमें अगर आप यह ब्याल भी रख दें कि ऐसी परिस्थिति में भी सेपरेशन हो तो क्या यह अच्छा नहीं होगा ? आप जानते हैं कि डावरी की वजह से बहुत सी बेधूज हो जाती हैं। इसलिए मैं यह साफ तौर पर जानना चाहता हूँ कि ऐसी जो शादियाँ हैं और जहाँ पर इस प्रकार की संभावना हो सकती है उनके संबंध में आप अपने नये लिबेलाइजेशन बिल में कोई इस प्रकार का प्रोविजन बनाने जा रहे हैं ?

श्री शिव शंकर : श्रीमन्, जहाँ तक डावरी एक्ट का संबंध है, डावरी एक्ट के जो अलग अलग सेक्शन्स हैं उनमें तरमोम करने के लिए अलग बिल पेश किया जाएगा। लेकिन माननीय सदस्य ने जो यह कहा कि मौतें हो रही हैं, मौतें होने के बाद तो शादी आटोमेटिक बिजोल्व हो जाती है। फिर भी मैं यह निवेदन करना चाहता हूँ कि अभी तक ऐसा कोई विचार नहीं रहा है। विमिन आर्गेनाइजेशन्स या दूसरे जो सोशियल आर्गेनाइजेशन्स हैं जिनसे परामर्श किया गया है उन्होंने इस बात का और इस किस्म का कोई सुझाव नहीं

दिया है। यह नहीं कहा जा सकता है कि अगर कोई डावरी शादी के बाद मारे तो उसको डाइवोर्स के लिए वेस बनाया जाय, जब तक कि औरत पर क्लॉलिटी न हो और जब तक कि औरत राजी न हो जाय और इस प्रकार के जो दूसरे प्रोविजन्स हैं, मैं समझता हूँ कि वे प्रोविजन्स खुद काफी हैं। लेकिन माननीय सदस्य का यह सुझाव बड़ा अच्छा है। मैं इस मामले में जरूर सोचूंगा।

श्री शिव चन्द्र शा : श्रीमन्, मेरा दूसरा सवाल यह है कि मंत्री महोदय ने इस सवाल के (सी) भाग में यह कहा है —

"The information is being collected and would be laid on the Table of the House."

दिल्ली बम्बई, कलकत्ता और मद्रास में पिछले दो सालों में अब तक कितने डाइवोर्स हुए हैं, यह मेरा सवाल था। यह ठीक है कि इसकी सारी तफसील आप बाद में देंगे। लेकिन मैं यह जानना चाहता हूँ कि क्या आप को इस बात की जानकारी है कि अब तक जो तलाक हुए हैं, क्या यह बात सही नहीं है कि उसमें ऐसी सपाउसेज मेल साइड से या फिमेल साइड से ज्यादा हैं जिन्होंने विदेशी औरतों से या विदेशी आदमियों से शादी की है ? क्या यह बात सही नहीं है कि विदेशी औरतों से जिन लोगों ने शादियाँ की हैं उनमें तलाक का ट्रेन्ड ज्यादा है बनिस्वत हिन्दुस्तानी शादियों के ?

श्री शिव शंकर : श्रीमन्, इस किस्म के सवाल का जवाब देना तो बड़ा मुश्किल है। आपने यह पूछा है कि यज्ञस्तः दो सालों में दिल्ली, बम्बई कलकत्ता और मद्रास में कितने इस प्रकार के मुकदमें हुए और उनकी तफसील क्या है। वह तो इस वक्त नहीं बतला सकता। लेकिन जहाँ तक फार्नर्स लड़कियों का सवाल है जिन्होंने हिन्दुस्तानियों से शादियाँ की हैं उनमें यह कहना कि तलाक का ट्रेन्ड ज्यादा है, मैं नहीं समझता कि... (Interruptions)

श्री सभापति : आप इसका नोटिस लीजिये ।

श्री शिव शंकर : अगर सेपरेट नोटिस हो जाय तो ।

श्री सभापति : आप इसकी तफसील टेबल में दे दें ।

श्री शिव चन्द्र झा : श्रीमन्, मंत्री महोदय इसका जवाब दे रहें हैं ।

श्री शिव शंकर : इसका जवाब यही है कि जिन चार स्टेटों के बारे में सवाल पूछा गया है, जब तक उनके बारे में हमारे पास स्टेटिस्टिक्स न आ जाये यह कहना मुश्किल है कि बाहर से आने वाली बच्चे-बच्चियों ने ज्यादा डायवोर्स लिया । जब तक हमारे पास पूरी स्टेटिस्टिक्स न आ जाये तब तक हम इस संबंध में कुछ भी नहीं बोल सकते हैं ।

SHRIMATI SUSHILA SHANKAR ADIVAREKAR: I would like to know from the hon. Minister, as there is a likelihood of liberalising the divorce laws and amending them, whether the grounds and the reasons that have been given for taking divorce, are going to be expanded and whether their orbit is going to be extended by including other reasons also as grounds for divorce and secondly whether the divorce in case of foreign marriages that have taken place, will be legalised under our laws.

SHRI SHIV SHANKAR: Sir, the hon. Member asked whether the grounds under liberalisation would be expanded or extended. Perhaps, the intention is that the divorce could be easier. Already provision exists; Section 13 in the Hindu Marriage act and also in the Special Marriage Act with regard to cruelty etc. is already there. So far as the 71st Report of the Law Commission is concerned, that was concerned with reference to the irretrievable breakdown of the marriage and if that was for a tenure of 3 years, it suggested that this should be a ground on

the basis of which divorce could be granted. We are working on that. So far as the request of the hon. Member is concerned as to whether we are expanding the grounds to include some more—unless she clearly says that these are the grounds on which divorce could be sought—it would be very difficult to consider it. So far as the law is concerned, in my submission, the law takes care of it but if there are any specific suggestions other than what have already been said, they can be considered. So far as the marriages performed in foreign countries and then the question of their divorce here is concerned, it is the personal law that governs so far as our country is concerned. Suppose, a particular person has married under a different law altogether, then it would be very difficult. So far as we are concerned, if he is a citizen of our country, he will come within the ambit of the law that prevails in the country. Suppose, if a particular person has married under a wholly different law which does not reign in this country and suppose, that person comes and settles here, and if the personal law has to prevail notwithstanding that, I think it is a matter that has got to be gone into slightly in detail whether it would really apply or not.

MR. CHAIRMAN: Mrs. Habibuillah. Ladies first.

SHRI SHIV SHANKAR: Is it only for this question?

SHRIMATI HAMIDA HABIBULLAH: I would like everybody to listen to this. It is a very important question I would like to ask the hon. Minister, if there is a complaint from a woman about demand for dowry, either before or after marriage—if it was a demand before and it continues after marriage, because then they start burning before the Government can do anything further—whether this matter has a legal ground for divorce because this is a very serious matter and, therefore, I would like to know whether this could be treated as a very positive ground for divorce.

SHRI SHIV SHANKAR: It is really a suggestion which is worth considering. I shall go deeper into it as to what the implications will be. I quite appreciate the suggestion that has come from the hon. Member.

DR. BHAI MAHAVIR: Sir, the question was about the law for the liberalisation of divorce and information was sought as to how many cases were there of divorce in different courts. The answer given relates to Hindu Marriage Act. Since the answer confines itself to the Hindu Society is it the Minister's case that unhappy marriages exist only in the Hindu society and all others are free from this unfortunate feature of development? But if there are cases of unhappy marriages in other societies also, is the Government thinking, or will the Government at any time think, in terms of having a common civil code at least in this respect so that all citizens of this country are equal and the same before law?

SHRI SHIV SHANKAR: Sir, the questioner has directed attention only with reference to the Hindu Marriage Act perhaps because the problems under the Hindu Marriage Act seem to be more paramount, more coming on the surface. So that is why the answer has been given keeping in mind this Act itself.

Dr. BHAI MAHAVIR: The question does not restrict.

SHRI SHIV SHANKAR: Taking advantage of the Seventy-first Report of the Law Commission, a similar amendment is under consideration, so far as the Government of India is concerned, to make it a ground for divorce, if it is a case of irretrievable breakdown of the marriage, even under the Special Marriage Act. Now, my friend has referred about a common civil code and other communities. Sir, very few cases—to my knowledge, I must say, negligible cases—have come to light with reference to other communities. Now, so far as a common civil code is concerned, we have got to appreciate the personal sentiments and the religi-

ous sentiments of the various minorities who are in this country. Unless they themselves come forth with a request that there should be a change and the society is in a position to accept it, it is difficult for us to bring in a common civil code at this stage.

MR. CHAIRMAN: Next question.

Setting up of Doordarshan relay centre of Calcutta

*288 SHRI AHMAD HOSSAIN
MONDAL:

SHRI PRASENJIT BARMAN:

Will the Minister of INFORMATION AND BROADCASTING be pleased to state;

(a) whether there is any proposal under Government's consideration to set up a relay centre of Calcutta Doordarshan in North Bengal;

(b) whether Government have received any representation for the setting up of a Doordarshan Centre at Cooch Behar in North Bengal; and

(c) if so, what action Government propose to take in the matter?

THE DEPUTY MINISTER IN THE MINISTRY OF INFORMATION AND BROADCASTING (MISS KUMUDBEN M. JOSHI): (a) to (c) Setting up of T.V. Relay Centres at Asansol and Murshidabad in West Bengal are approved projects of the Sixth Plan (1978—83).

There is no proposal at present to set up a T.V. Centre at Cooch Behar due to constraints in resources.

SHRI PRASENJIT BARMAN: Sir, we are glad to know that there is a proposal to set up two relay centres of Calcutta Doordarshan in Asansol and Murshidabad. But Bangladesh TV is very popular in the North Bengal region. So, may I know from the

The question was actually asked on the floor of the House by Shri Prasenjit Barman.