

REFERENCE TO THE FUNCTIONING OF THE STATE LEGISLATURE OF UTTAR PRADESH

SHRI LAL K. ADVANI (Gujarat): Mr. Vice-Chairman, Sir, I would like to draw the attention of the Government to a very quaint and odd situation that has developed in U.P. I wish we had occasion to discuss this matter through a Calling Attention Motion. But somehow it has not been possible, and I am referring to it only as a special mention, because I believe that the Government has a duty in this regard. I do not agree with the view that this is a matter pertaining to U.P. alone. Under article 355 of the Constitution, a duty is imposed on the Union to ensure that Government of every State is carried on in accordance with the provisions of the Constitution. Sir, tomorrow the Legislature of U.P. is to meet.

SHRI SHYAM LAL YADAV (Uttar Pradesh): Sir, on a point of order. If he is referring to the functioning of the State legislature of Uttar Pradesh, I take serious objection. I would like to draw your attention that this matter should not have been allowed by the Chairman. Even if it was allowed, I would like to raise this objection and request that the matter may again be referred to the Chairman.

(Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Let me hear his point of order.

SHRI SHYAM LAL YADAV: My point of order is this. Perhaps he is referring to the election of the Speaker of the Assembly. My submission is that this Parliament is not competent in any way under any article of the Constitution to discuss or to have observations on the functioning and working of a State Legislature. A State Legislature is an autonomous body under the Constitution and they have not their own rights. I would like to mention here the observations made by Shakti

and Kaul in their famous Commentary on Practice and Procedure of Parliament, page 887-888 wherein they say that the Rules of Procedure and Conduct of Business in Lok Sabha precluded a State matter to be discussed in the Lok Sabha. Normally, notices of Calling Attention on matters which are not primarily the concern of the Government of India are not admitted. They further observe on page 887-888 that Parliament recognises the sovereignty of State Legislatures concerning their procedures and conduct of business inside the House and the Speaker has not permitted discussion relating to any matter connected therewith.

Sir, these are the observations. My submission is that the Union Government is, in no way responsible to answer for the functioning of the State Government. *(Interruptions)* Let me make my submission. The Central Government is in no way concerned or is in no way responsible to answer about the functioning of the State Governments or the State Legislatures. The State Legislatures are independent and the Central Government cannot give any direction to any State Government. In Uttar Pradesh, the same party is in majority. If some other party had been in majority in Uttar Pradesh, I think this matter would not have been raised by Shri Advani. The discussion can take place on a matter on which the Central Government can give an answer to the House. I would like to draw the attention of the House to Article 180. It is not correct to think that there is no Speaker for the Legislature to function in accordance with the Constitution.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Yadav, you are raising an objection to stop discussion on this matter because it pertains to a State Legislature. At the same time; you cannot bring in what is happening there. In that case, I will not permit you. I have heard your point of order. Therefore, please

do not go into the merits of the case. If you discuss the merits of the case, then you are opening a discussion.

(Interruptions)

SHRI SHYAM LAL YADAV: I am not going into the merits. I am going into the constitutional provision. It is there in the Constitution. I am not going into the merits or what is wrong or what is right. The Rules of Procedures also say like that. I would draw the attention of the House to Rule 238, Sub-rule (iii) which says "offensive experssion about the conduct or proceedings of the House in any State Legislature". Here the word used is 'offensive expression'. If we discuss the functioning of a State Legislature . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point.

SHRI SHYAM LAL YADAV: When we comment on the Legislature, we may use expressions which may be offensive.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point.

SHRI SHYAM LAL YADAV: I have got several points in this connection. *(Interruptions)* Mr. Bhupesh Gupta, please bear with me. This has been the wholesome practice of this House and the other House of Parliament is never discussed. *(Interruptions)* Please let me make my submission.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I will hear everybody on this point of order.

(Interruptions)

SHRI SHYAM LAL YADAV: Therefore, as has been the practice in Parliament that one House of Parliament does not discuss the other House . . . *(Interruptions)*. Please bear with me. Let me make my submission: We do not discuss the functioning of the other House in order to avoid a conflict in opinion.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point.

SHRI SHYAM LAL YADAV: In the same way, we do not discuss the State Legislatures also. Therefore, my submission is that this is a matter over which this House has got no jurisdiction. The last point that I would like to bring to your notice and to the notice of the House and the hon. Chairman is that they are saying that there is no Speaker there . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am not permitting you on that. If you speak on that, that will not go on record.

SHRI SHYAM LAL YADAV: Then, Sir, to sum up the matter, I will end by saying that this House has got no jurisdiction. Sir, will Mr. Bhupesh Gupta, kindly allow me to make my submission? He should sit while I am speaking. If he keeps on standing while I am speaking, I can also keep standing when he speaks. Will he follow some procedure or not, Sir? He is a senior Member of the House.

THE VTCE-CHAIRMAN (SHRI DINESH GOSWAMI): He is not obstructing you.

SHRI BHUPESH GUPTA (West Bengal): Am I not allowing him? All right, you continue.

SHRI SHYAM LAL YADAV: Sir, my submission mainly is that this is not within the jurisdiction of this House to discuss the functioning of the State Legislature. That is a sovereign body. Sir, even if the Chairman has allowed in his Chamber certain matters to be raised here, my submission is that a Member has got a right to raise a point of order and to make constitutional objection to this matter being raised. I would request you to withhold the permission for the time being . . .

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point.

SHRI SHYAM LAL YADAV: Let the Chairman come here and hear us

[Shri Shyam Lai Yadav]

or let the Chairman hear us in his Chamber. Sir, this is a very pernicious theory, undemocratic and anti-constitutional and against the federal Constitution if we set up a procedure that we shall discuss the functioning of a State Legislature.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I got your point.

SHRI SHYAM LAL YADAV: This will be a serious inroad into the sovereignty of the State Legislature and its Members. Therefore, my submission is that this should not be allowed and the matter may again be reconsidered by the Chairman.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Gupta, your name is also there in 'Special Mentions'. But at the present moment, I would like you to confine, if you want to speak, to the point of order that has been raised by Mr. Yadav. You kindly do not go into the merits of the case.

SHRI BHUPESH GUPTA: Sir, I only reply to the point of order raised by him. To the merits, I will come later when you will permit me.

Sir, this point of order is frivolous, and one of the rarest frivolous points of order that I have ever come across. First of all, Sir, there is the constitutional point whether this House can discuss anything of that type. It should be read with the Rules, Parliament consists of the President of India, the Lok Sabha and the Rajya Sabha. The main function of the President of India is to protect and preserve the Constitution. Therefore, Sir, our institution, the Parliament, collectively these three elements—the President and the two Houses—have the right to look into any matter which concerns the preservation and protection and defence of the Constitution. In fact, the President's oath of office obliges him to defend and protect the Constitution. We are doing so.

Secondly, Sir, the precedent. Sir, I remember immediately a case which involved me. Once in the Punjab Assembly, the Speaker certified a thing and the Budget was passed. And the whole question was raised whether the signature had been given before the Budget was passed. There was a lot of controversy and disturbance in the House. In this very House, Sir, the entire question of what happened with regard to the passing of the Budget by the then Punjab Government in the Legislative Assembly was discussed at length so much so, Sir, then an enquiry was made as to how I could get the torn copies of the Budget thing, the wrong thing. Then, Sir, I brought in a privilege motion against the police officer who came to make the enquiry from Punjab. Nobody said that our House was wrong. On the contrary, an apology had to be given, and many things happened there. These things are there. Many instances we can take from the proceedings. These are with my knowledge, of my personal involvement. We can discuss in Parliament some of the things happening in the State Assemblies or anywhere else provided, we think that these are affecting the working of the Constitution of the country.

Sir, my friend does not bother about precedents and so on. If you like I may mention that when we were in Government in West Bengal and Kerala, Pranab Babu was also on our side at that time, every day the West Bengal Assembly thing was being discussed in this House.

THE LEADER OF THE HOUSE (SHRI PRANAB MUKHERJEE): But every time you along with me used to oppose it saying that it is a State subject and that we should not discuss it.

SHRI BHUPESH GUPTA: If I had opposed then wrongly, why should you follow it now?

SHRI SHYAM LAL YADAV: In the case of Punjab a dispute had arisen whether the Budget had been passed or not. *(Interruptions).*

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Yadav, you have made your observations.

SHRI BHUPESH GUPTA: Therefore, Sir, all these things can be discussed. Here we are not discussing all those things. How does he know what we are going to say? We have not said anything. Sir, two of us, Mr. Advani and myself, had a long discussion with the Chairman to have it admitted and got the permission. Sir, follow the ruling that you gave. The Chairman has given the permission. This permission cannot be questioned, at least by the Vice-Chairman.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am aware of that position.

SHRI BHUPESH GUPTA: You are not doing it, I know *{Interruptions}*.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): If a point of order is raised, the Chairman, must permit it, and this being an important point of order I am giving chance to everybody. I will give chance to you also. Let me give a chance to Mr. Advani first and then to Shri Bhattacharya, then to Shri Shiva Chandra Jha, then to Shri Nanda and also to Shri Bagaitkar and to nobody else.

SHRI LAL K. ADVANI: Sir, I will confine myself only to the point of order. The hon. member from that side, Mr. Yadav, has contended that in "this House we should not discuss anything pertaining to a State. He has further said that after all this Government is not answerable for what a State Government does. I entirely agree that this Government is not answerable for what a State Government does. But the Union Government is certainly answerable for the proper functioning of the Constitution and I am not relying only on precedents. My colleague, Shri Bhupesh Gupta has cited to many precedents in which matters pertaining to States have been discussed here, and the discussions in this House had not been

confined merely to constitutional issues. Only today, this morning, and also yesterday, we have been discussing incident in Baghat, which strictly speaking fall within the province of the U.P. Government. But that precedent apart, in this case I am specifically relying on article-355 of the Constitution. If Shri Yadav has a copy of the Constitution, he may go through it. It describes in Article 355 the duty of the Union to protect States against external aggression and internal disturbance, etc. Article 355 says that it shall be the duty of the Union to protect every State against external aggression and internal disturbance. What follows is more important in this context, namely, that it shall be the duty of the Union "to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution." This is the provision whereunder I sought leave from the Chairman and he kindly conceded.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Which article are you referring to?

SHRI LAL K. ADVANI: Article 355 of the Constitution, which makes it the duty of the Union Government to ensure that the administration or the Government of every State is carried on in accordance with the provisions of this Constitution. I will come to the substantive part of it later.

My brief submission to this point of order is that today in U.P. there is a view that what is happening there is constitutionally illegal. I do not subscribe to that view. But I must say that even though it may not be constitutionally illegal, it is certainly constitutionally improper.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): We will come to that later on.

SHRI LAL K. ADVANI: And the constitutional illegality and impropriety of what is happening is very

[Shri Lai K. Advani] clear. My submission is that as the functioning of the Constitution is involved this permission has been granted

श्री शिव चन्द्र झा (बिहार) :
उपसभाध्यक्ष महोदय, बात बिल्कुल साफ है। केन्द्रीय सरकार की जिम्मेदारी है संविधान की रक्षा करने की जो कि श्री आडवाणी जी ने पढ़कर सुनाया। उसमें दखल देने की बात नहीं है। संविधान को कोई डिस्टर्ब करता है, सबवर्ट करता है तो केन्द्रीय सरकार चुपचाप देख नहीं सकती। इसलिए स्पीकर के चुनने में जो देरी हो रही है उससे संविधान पर कुठाराघात हो रहा है। इस पर सरकार को विचार करना चाहिए।

दूसरी बात यह है कि अध्यक्ष महोदय का भी कोई मापदण्ड होना चाहिये। यह विषय दो तीन दिन पहले मैंने ही स्पेशल मेशन के लिये दिया था। लेकिन उन्होंने नामंजूर कर दिया और आज मंजूर कर लिया। तो डबल स्टैंडर्ड क्यों रखा जा रहा है। ये दो बातें हैं। पहला यह है इस विषय पर बहस होनी चाहिये। यह स्पेशल मेशन ही नहीं काल अटेंशन भी दिया गया है, इसलिए संविधान की धाराओं को लेकर इस विषय पर पूरी चर्चा होनी चाहिए।

SHRI G. C. BHATTACHARYA (Uttar Pradesh): Mr. Vice-Chairman, Sir, I gave notice of Calling Attention first and you were also one of the signatories along with Mr. J. P. Mathur, Mr. Bhupesh Gupta and other friends, and now it has taken the shape of only a special mention.

I am not repeating what others have said. I am only trying to draw your attention to Article 99 of the Constitution:

"Every member of either House of parliament shall, before taking his seat, make and subscribe be-

fore the President, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule."

Now, we come to the Third Schedule.

Third Schedule—III—

Form of oath or affirmation to be made by a candidate for election to Parliament:—

I,..., having been nominated as a candidate to fill a seat in the Council of States do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

And after taking the oath we come and occupy the seat. We have taken the oath under the Constitution saying that "I will bear true faith and allegiance..." and "...uphold the sovereignty and integrity..." And now it is our duty; we have taken solemn oath to uphold it. Now I would respectfully submit where the violation comes in. Here I am unable to agree with the view of Mr. Advani ...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Don't go into that controversy.

SHRI G. C. BHATTACHARYA: He talked of Constitutional impropriety. I say there is a direct violation of the Constitution...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point.

SHRI G. C. BHATTACHARYA: I am referring to Article 178,

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): What I am saying is that whether there is constitutional violation or not, that will come provided this matter is permitted to be raised.

SHRI G. C. BHATTACHARYA: I will just take a few minutes only. I would ask as to how you can decide the point of order. He says that unless there is constitutional violation, we cannot

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI):- Yes, I have got the point.

SHR G. C. BHATTACHARYA: I must tell you how a constitutional violation is there...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You need not go into that. If from the notice it appears that there is a case of either Constitutional impropriety or Constitutional violation, it will come up. Therefore, you need not go into that.

SHRI G. C. BHATTACHARYA: But kindly note down the relevant Articles. These are only three Articles: 178, 180 and 188.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI) • I have taken note of it.

SHRI G. C. BHATTACHARYA: Then I have got only one submission more. I have been informed that the notification of the Governor is under Article 188, that means only pro tem for the purpose...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Don't go into that. I have also not permitted Mr. Yadav to go into the merits and I shall also not permit you. Yes, Mr. Salve, you wanted to say something.

SHRI N. K. P. SALVE (Maharashtra): Sir, as you have rightly put, the point of order raised is that the entire question raised here in this House is outside the purview and outside the domain of the rights and the authority of this House, because, something for which the Government is not answerable, cannot be validly raised in this House, apart from the fact that there is some such thing as legislative propriety. If we would not allow something being done in this House, good, bad or indifferent, to be discussed by any other House, certainly, something, good, bad or indifferent, happening in any State Legislature is a matter, in my opinion, also outside the purview of this

House. But the entire question proceeds upon a complete misreading of article 355. A reasonable man like Mr. Advani will immediately understand. He read article 355 to me, *inter alia*, that it is incumbent upon the State Government to ensure _____

SHRI LAL K. ADVANI: Not the State Government, but the Union Government.

SHRI N. K. P. SALVE: Yes, Union Government. It is incumbent upon the Union Government to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution. This is what you have relied upon; the latter part. It is incumbent upon the Union Government to ensure that the Government of every State is carried on in accordance with the provisions of the Constitution. Does it mean also that the Legislature is also carried on in accordance with the provisions of the Constitution? Is not the Government... (*Interruptions*)

Sir, my point is, the two are entirely two different concepts in the Constitution. One is covered by Chapter II of Part V of the Constitution. This is the 'State Government'. The other is covered by Chapter III of Part VI of the Constitution, commencing from article 168 onwards. The two are entirely different and article 355 does not deal with any of the articles which commence from article 168. I want a specific ruling on this. Will article 355 take in-----

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have got your point. You mean to say that article 355 deals with the Executive and not the Legislature.

SHRI N. K. P. SALVE: On another point, I would like to have your ruling very clearly and categorically. When we are on the question of the Legislature being carried

[Shri N. K. P. Salve]
on in accordance with the provisions
of the Constitution, article 180 in
terms provides that while the office
of the Speaker _____

THE VICE-CHAIRMAN (SHRI
DINESH GOSWAMI): Kindly do not go
to article 180. I have not permitted
anybody to go to article 180.

SHRI N. K. P. SALVE: I am not on
the merits. I am reading the Constitution—
Am I not entitled to read the
Constitution? (Interruptions) I am not on
the merits. (Interruptions)

SHRI BHUPESH GUPTA: In that
case, I can read some provisions of the
Constitution. (Interruptions)

THE VICE-CHAIRMAN (SHRI
DINESH GOSWAMI): I have not
permitted Mr. Yadav and other Members
to go into article 180 and article 168. I
would request you not to go to article
180. The interpretation of article 180 will
only come provided I overrule the point
of order. Hence, kindly, at this stage, do
not go to article 180.

SHRI N. K. P. SALVE: I would only
submit this. I am not going to article 180.
There is one thing I would beg of you to
consider. You may not let me go to
article 180. But in regard to the question
whether or not there is compliance with
the Constitution, you may kindly bear in
mind all the provisions of the Con-
stitution.

THE VICE-CHAIRMAN (SHRI
DINESH GOSWAMI): I have got in
mind.

श्री सदाशिव आगाईतकर (महाराष्ट्र):
उपसभाध्यक्ष जी, जो व्यवस्था का प्रश्न
श्री यादव जी ने उपस्थित किया है वह
पूर्णतः गैर कानूनी है। इस दृष्टि से कि
हम यहां राज्य सभा में बैठे हुए हैं। जो
355 की क्लॉज अभी पढ़ी गई है उसमें
बिल्कुल साफ है। इस राज्य सभा में जो
हम लोग आगे हुए हैं वे अलग-अलग

राज्यों से आये हुए हैं। हम पर कुछ
विशेष ज़िम्मेदारी भी है। जो 355 क्लॉज
में है वह बिल्कुल अपनी जगह साफ और
दुरुस्त है। इसके अलावा भी मैं आपके
सम्मुख पेश करना चाहूंगा कि हम राज्य
सभा के सदस्य हैं, राज्यों से आये हुए
हैं और राज्यों में जो गतिविधियां होती
हैं ला एंड आर्डर से लेकर अन्य कई चीजों
तक उनको हम इस हाउस में पेश करते
हैं। इसलिये मैं चाहूंगा कि यह जो व्यवस्था
का प्रश्न उन्होंने उठाया है वह व्यवस्था का
प्रश्न एक प्रकार से व्यवधान है। चेयरमैन
साहब ने इसको उठाने की जो परमिशन दी
है और इन्होंने व्यवस्था का प्रश्न उठाया है
इस पर हम आपकी रूलिंग चाहते हैं।

SHRI NARASINGHA PRASAD
NANDA (Orissa): My point is that this
point of order does not arise and as Mr.
Bhupesh Gupta has rightly said, it is a
frivolous point. After the Chairman has
already allowed a mention to be made in
the House, there is no point of order in
anticipation of what is likely to be said
by the hon. Member. The hon. Member
who was to make a special mention has
not said anything and before he has said
anything Mr. Yadav anticipated what he
was likely to say.

SHRI SHYAM LAL YADAV: When
he has sought permission, we know
about it. (Interruptions). His point is
irrelevant.

SHRI NARASINGHA PRASAD
NANDA: I do not yield.

THE VICE-CHAIRMAN (SHRI
DINESH GOSWAMI): He is making a
point. He did not disturb you, why are you
disturbing him? It is for me to judge.

SHRI NARASINGHA PRASAD
NANDA: Mr. Yadav, I did not disturb
you.

SHRI SHYAM LAL YADAV: But I know what is going to be said.

SHRIMATI MARGARET ALVA: (Karnataka): You know anything and everything that is to be said in the House.

SHRI NARASINGHA PRASAD NANDA: So, on a hypothetical question

SHRI SHYAM LAL YADAV: No hypothetical question.

SHRI NARASINGHA PRASAD NANDA: On a hypothetical question no point of order can be raised. The Rules of Procedure do not provide for that. There is nothing in the Rules to anticipate certain situation and on the basis of that anticipation to raise a point of order.

My second point On this point of order is, supposing there is a situation of a Constitutional deadlock in a particular State. I am not speaking of any particular instance, what is happening in U.P. Or elsewhere, I am not speaking of that, this is just a general proposition. Supposing a situation of a Constitutional deadlock arises in a particular State, is not the Council of States competent to discuss it? It is not correct to say that this House has no jurisdiction to discuss a matter which has arisen out of a Constitutional deadlock. For example, supposing a State Legislature has to elect its Speaker. It should be the normal function of that Legislature to elect the Speaker. But, for whatever reasons when a situation of a Constitutional deadlock arises and the Legislature is not able to meet, will not the Union Government interfere? Isn't the President there to look into that question? Therefore, to say that anything which pertains to a State cannot be discussed in the Council of States, contains the fallacy of begging the question. I would therefore, submit that there is absolutely no merit in the point of order raised by Mr. Yadav and it should be overruled.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Yes, Mr. Mukherjee.

SHRI SHYAM LAL YADAV: Sir, before he says anything, I would like to ...

SHRI M. C. BHANDARE (Maharashtra): Sir, before the Leader of the House says anything, I should be allowed.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Yes, you speak.

SHRI M. C. BHANDARE: Mr. Vice Chairman, Sir, since questions of interpretation of Constitution are raised, I deem it my duty to place before you certain aspects of those matters. A very strong reliance has been placed by hon. Member Mr. Advani on article 355. In fact, that has been the sheet anchor of the Opposition.

SHRI G. C. BHATTACHARYA: There are other sheet anchors.

SHRI M. C. BHANDARE: Sir,...
(Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): All points have been taken note of. (Interruptions) . All points have been taken note of, Mr. Nanda.

SHRI N. K. P. SALVE: That is the source.

SHRI M. C. BHANDARE: But as I followed it, he was into action heavily relying on article 355. May I point out to the House that article 355 finds a place in part XVIII of the Constitution which deals with the emergency provisions and, therefore, has no application to a situation which has arisen.

SHRI PRANAB MUKHERJEE: Sir, I would like to make a submission. There are two aspects of the question. So far as the permission of the Chairman to mention a particular

[Shri Pranab Mukherjee]

subject under 'special mention' is concerned, it is exclusively his prerogative. And when he permits it, we ought to accept that it has been admitted by him. But I would like to draw the attention of the House to one thing. Mr. Advani has mentioned article 355 and Mr. Nanda has dwelt on the point that when a constitutional irregularity takes place, it is incumbent upon this House to give its views as the Government of India is ultimately responsible for the maintenance of the Constitution and the President is the custodian of the Constitution. Sir, what is the matter? The matter is exclusively the prerogative of a House—the election of its Presiding Officer. What is the constitutional provision covering it? Under article 178.... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please don't go into that provision. (Interruptions)

SHRI PRANAB MUKHERJEE: Sir, if you kindly listen to me, then the whole question will be taken in its Otherwise
(Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Will you kindly resume your seat? The point that you are making is that the matter which is sought to be raised by Mr. Advani is the exclusive privilege of the State Legislature. This has been taken note of by me. Therefore, you need not refer to the constitutional provision. I have got that in mind.

SHRI PRANAB MUKHERJEE: All right, Sir. I am not referring to the constitutional provision. I am just drawing the attention of this House to the fact that the Presiding Officer is elected by a legislature. It is its prerogative and right. And it is -----
(Interruptions) Just listen to me. I am making out my point. You can rule it out.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I have not permitted others to mention this point. I have not permitted them. Therefore, kindly don't go into that.

If you go into that -----
(Interruptions)

SHRI BHUPESH GUPTA: Then I will say, Sir, that privilege is being violated.
(Interruptions)

SHRI PRANAB MUKHERJEE: I am just placing my point. As the Leader of the House, I have some responsibility to mention my point of view also. You cannot completely ignore it. You have not allowed others to mention it. But as the Leader of the House, I have some responsibility and I am drawing your attention to the consequences which may flow out of it.

This House has a Presiding Officer—the Deputy Chairman—which post fell vacant on 2nd of April. Till today, we have not elected the Deputy Chairman of this House and the exact terms of the Constitution in the articles in regard to the election of the Deputy Chairman and in regard to the election of the Presiding Officer are exactly the same—"as soon as". Therefore, if you go into the merits of this question, tomorrow the UP Assembly can raise the question why has the Council of States, where my representation is there, not elected a Deputy Chairman? Would you like the UP Assembly to discuss it? (Interruptions) Therefore, I submit that this is a matter of serious consequences.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Bhatta-charya, there is no right of reply for you. You have raised your point of order. The others have placed their viewpoints. I have heard all Members regarding this point of order. We adjourn till 3 o'clock and we will take up this matter at 3 p.m.

The House then adjourned for lunch at forty-five minutes past one of the clock.

The House re-assembled after lunch, at three of the clock [The Vice-Chair, man (Shri Dinesh Goswami) in the Chair]. 3.00

P.M.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Just before the lunch break, when Mr. Advani was to raise a Special Mention in which Mr. Bhupesh Gupta's name also is there, a point of order was raised by Mr. Shyam Lai Yadav, and I heard a number of Members. During the lunch break I had a talk with the hon. Chairman and I apprised him broadly about the various views expressed by Members during the point of order raised on the Special Mention which had been admitted by the Chairman. I need hardly mention that the Vice-Chairman is bound by this Order of admission, but the Chair has also to take note of, and dispose of the point of order which has been raised. On my suggestion hon. Chairman has agreed to consider the views expressed during the point of order and give his ruling thereon tomorrow. In view of this he has directed that the Special Mention may not be made today.

SHRI BHUPESH GUPTA: Sir, I cannot understand it. We cannot understand this thing. I know that tomorrow is the 3rd of July, and something may happen somewhere. Now, Sir, we have got a strange thing. We met the Chairman. We insisted on a Calling Attention. He said—anyway, you are advising and so I am not bringing in anybody; Calling-Attention would not be advisable in this case. Ultimately it was agreed that a Special Mention would be the most suitable way. In view of the fact that it was held by the other side Chairman as to what the Government can say, we never insisted that 'the Government must say something here. We never insisted on that. We understand that point—what the Government here would say—but we pointed out certain constitutional developments* taking place. In the paper before us, the Government have said that they should be seized of this matter and 494 RS—10.

I bring it to the notice of the House—leaving it to the concerned authorities here and elsewhere to do everything best within their competence and within the framework. Today it can be deferred. It has already been deferred. I am not challenging anymore because I know that you will not do anything. That I know. I am absolutely convinced about it. Now newspaper reports are coming. That is why we are asking. Today people are coming to Delhi and we in Parliament defer. We in Parliament cannot even express our opinion. Sir, if we made any disparaging remark about it, you can certainly expunge it. You can say whatever you like, rule out anything that we say. We have no say here. Well, it seems that here we are living in a state of affairs where we cannot discuss in the Rajya Sabha, in Parliament, the state of affairs in our country, functioning of the Constitution, whereas the Speaker is being chosen perhaps at 1, Akhar Road.

Thank you.

SHRI LAL K. ADVANI: Mr. Vice-Chairman, I cannot in any way challenge the ruling that you have just now given, but I may point out that perhaps the Chairman was not aware of the fact that tomorrow the Legislature of U.P. is meeting without the Speaker having been duly elected.

SHRI SHYAM LAL YADAV: Under article 180 of the Constitution, the Governor can nominate somebody. How can you say this in view of that thing? (*Interruptions*).

SHRI G. C. BHATTACHARYA: Sir, he is misleading the House. (*Interruptions*).

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am on my legs.

SHRI BHUPESH GUPTA: Sir, the hon. Member is eminently qualified from the U.P. Assembly (*Interruptions*).

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I am on my legs, Mr. Bhattacharya. I am only asking for the co-operation of the senior-most Members, as the junior-most Chairman. Now what I am saying is that the Chairman will give the ruling tomorrow. Whatever you wanted to say has gone on record. Let us go on to the next item.

SHRI LAL K. ADVANI: I would naturally abide by what you say. But my submission is that if this ruling had been given without awareness and consciousness of the fact that we wanted to raise it today precisely because of the impending session tomorrow, he might be able to reconsider it even now if you were to talk to him as the Vice-Chairman. Even if at 5 O'clock we raise it, we would be raising it in time, to enable the authorities in U.P., even within the Legislature and even the Governor of U.P. to take corrective steps if he wants to. If he does not want to, that is a different matter.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I can tell you that the entire proceedings, including what you have said just now, will go to the Chairman. Now we go on to the other special mentions. Mr. Bagaitkar.

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उपसभाध्यक्ष महोदय, यह बहुत ही दुर्भाग्यपूर्ण और शर्मनाक घटना है जिस के बारे में मुझे उल्लेख करना है। जो संस्था गांधी जी के नाम के साथ

THE VICE-CHAIRMAN (SHRI A. G. Kulkarni) in the Chair]

और जहाँ बं रहे उस स्थान के साथ जुड़ी हुई है उस के बारे में मैं बता रहा हूँ। बादी एंड विलेज इंस्टीट्यूट कमीशन

द्वारा जमनालाल बाजाज रिसर्च इंस्टीट्यूट, वर्धा में चलाया जाता है। करीब एक महीने पहले—6 जन को यह घटना है—उस संस्था में काम करने वाले दो आफिसर, श्री एन० के० राय और बी० पी० श्रीवास्तव, एक डिजाइन इंजीनियर हैं और दूसरे सनियर साइंटिफिक रिसर्च असिस्टेंट हैं, इन दोनों ने चतुर्थ श्रेणी के वहाँ के एक कर्मचारी, श्री बसे नाम के कर्मचारी को, वहाँ की लाइब्रेरी में बुरी तरह से पीटा चप्पलों से, गाली-बोल करके इन आफिसरों ने उसको पीटा है। आज इस घटना को करीब एक महीना हो गया है, कोई कार्यवाही अभी तक उसके बारे में नहीं की गई है।

THE VICE-CHAIRMAN (SHRI A. G. KULKARNI): Mr. Bagaitkar, you go to your seat and speak from there. You have not asked for my permission. Have you been allotted this seat?

SHRI SADASIV BAGAITKAR: No.

THE VICE-CHAIRMAN (SHRI A. G. KULKARNI): Then, please go there.

SHRI SADASIV BAGAITKAR: I will go. Because Mr. Shahi is absent

THE VICE-CHAIRMAN (SHRI A. G. KULKARNI): Just because Mr. Shahi is absent, it does not mean that you can occupy his seat.

SHRI SADASIV BAGAITKAR: I am sorry if Mr. Shahi has not informed the Secretary-General. In his absence, I am supposed to work as the leader. I will go and speak from my seat.

THE VICE-CHAIRMAN (SHRI A. G. KULKARNI): Please go and speak from there. There are some rules and regulations.

SHRI SADASIV BAGAITKAR: I thought Mr. Shahi had already informed the Secretary-General about his absence _____