

User plants, not only with regard to sulphuric acid but with regard to other items also, in the matter of distribution programmes, the public sector is reluctant to utilise co-operatives and they would rather do it through individual distributor who are powerful and whose way of selling them in the blackmarket has been a scandal in the country.

MR. CHAIRMAN: The question is about co-operative_s and not individuals.

SHRI PRANAB MUKHERJEE: Sir, so far as the question of co-operatives is concerned, in the main text of my reply I have already indicated that when the particular company issued an advertisement in the newspapers, after November there was no response from the co-operative sector. Only one co-operative unit, that is, Bharat Co-operative, New Delhi, wanted to have a quantum of 200 tonnes, and that too they made an appeal to the Government and We have sent it to the concerned authority and it is under their consideration. So far as distribution is concerned, we provide to these customers, actual users. In the first category come public sector undertakings and Government departments. They use it for their own purposes. Then, actual users_B who are DGTD registered firms. Actual users-cum-trader_A come within the third category. So far as co-operatives are concerned, I have already stated that they can also come in response to the advertisements when these are issued.

MR. CHAIRMAN: I think that is quite enough.

SHRI R. R. MORARKA: No, Sir. I want to put a question.

(Interruptions)

MR. CHAIRMAN: AH right. One question more.

SHRI R. R. MORARKA: Sir, is it not a fact that out of the production in this plant, at Khetri, as well as the stores, items are stolen and pilfered in conspiracy with the high-ups there and that is the main reason why low production is shown and this project incurs heavy losses? Is it also not a fact that recently the General Manager of this plant has been arrested by the CBI there?

SHRI PRANAB MUKHERJEE: Sir, I have no such information. The hon. Member has provided me with some information.

MR. CHAIRMAN: You look into it. *(Interruptions)*. We had a lot of discussion and there is a lot to get through.

SHRI DHARAMCHAND JAIN: Sir, when Mr. Morarka wanted to ask a question, you allowed him. I was the first man wanting to ask a question. If you allow this sort of discrimination, it is not proper. I am afraid this is not the way you are going to protect the Members.

MR. CHAIRMAN: There is no subject on which I cannot ask a hundred questions, if I were sitting with you. But a hundred questions need not be asked. I will have to use a little discretion in the matter because I must have the matter cleared and not just have it debated upon.

Please go on with Question No. 4.

Preference to persons from a particular community is filling the vacancies of Judges in the High Courts and the Supreme Court

♦4 SHRI BISHAMBHAR NATH PANDE; Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state;

(a) whether it is a fact that several vacancies of Judges in the various High Courts and the Supreme Court were filled during 1978-79;

(b) if so, whether it is also a fact that persons of only one particular community were shown preference in the matter of such appointments; and

(c) whether Government have received protests from the Gujarat High Court Bar Association and the Supreme Court Bar Association in this connection?

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

(b) It is not possible to say, Sir, and the information regarding caste and community is not asked for when making appointments to Supreme Court and High Courts.

(c) No, Sir.

श्री विश्वम्भर नाथ पांडे : क्या माननीय मंत्री जी यह बताने की कृपा करेंगे कि इन अवधि में कितनी नियुक्तियां हुईं उन हाई कोर्टों में और क्या यह भी बताने की कृपा करेंगे कि किन-किन की नियुक्तियां हुईं और क्या माननीय मंत्री जी यह बताने की कृपा करेंगे कि गुजरात हाई कोर्ट के वार एसोसियेशन ने प्रोटेस्ट किया था कि जिन सज्जन को सुप्रीम कोर्ट का जज नियुक्त किया जा रहा है वह माननीय प्रधान मंत्री के बहुत नजदीकी रिश्तेदार है और उनमें बहुत ज्यादा काबिल लोग और थे और सीनियर थे, लेकिन उन को नजरअंदाज किया गया है और क्या यह भी बताने की कृपा करेंगे कि एक विशेष पार्लिकुलर कम्युनिटी के लोग जिन के नाम अगर आप फेह्रिस्ट में देखें तो खास कोई बात पूछने की जरूरत नहीं रहती, लेकिन मैं यह अजें कर देना चाहता हूं कि सुप्रीम कोर्ट के एक लायर से कहा गया कि कोई नाम बताइये, अभी हम को बहुत-सी नियुक्तियां करनी है और चुनावों

उन्हीं के एक जूनियर की, चूंकि वह उस कम्युनिटी के थे इसलिये उन की मुकदररी कर दी गयी। तो इस प्रकार बेहद रोष है उन में, असन्तोष है इलाहाबाद हाई कोर्ट के वार एसोसियेशन में, और गुजरात के वार एसोसियेशन में। तो मेहरबानी कर के चूंकि कॉन्फ्लिक्ट हमारे मुल्क के बहुत डाइरेक्ट सेक्टर्स में घुसता चला जा रहा है, कम से कम आप इस बात को ध्यान में रखें कि न्यायपालिकाओं के अन्दर वह न जाने पायें।

श्री सभापति : प्रश्न यह है कि आगे आप क्या करेंगे (Interruptions)
आप जवाब तो सुनिये उस के बाद अपनी बात कहियेगा।

SHRI RAMANAND YADAV: Sir, let the Government give the reply. You yourself need not direct.

SHRI MANUBHAI PATEL: The Minister is competent. Why should you intervene?

श्री सभापति : कभी - कभी इतने अलफाज होते हैं कि उन में मतलब दब जाता है।

श्री नागेश्वर प्रसाद शाही : चेयरमैन साहब। चेयरमैन साहब।

श्री सभापति : जवाब दिया जा रहा है। इस समय आप चुप बैठें।

SHRI SHIV SHANKAR: Sir, during the period 1st January, 1978 to 31st December, 1979, in all 109 persons were appointed as High Court Judges. So far as the Supreme Court is concerned, 5 Judges were appointed. Now my friend referring to one Judge of the High Court said that he has superseded and he has been appointed as a Judge of the Supreme Court. I may tell the House that the

rule of seniority need not be followed when we are choosing the judges for the Supreme Court. The best material has got to be taken into consideration. And now, I say, Sir, that the gentleman who has been appointed to the Supreme Court is one of the best that could be available in the country? And I must say that he is a great addition to the Supreme Court. While I would not like to go into the details, I have myself—with your kind permission, Sir,—had an occasion to appear before him in innumerable cases, and I can assure the House that we got one of the best and the most independent judges in the Supreme Court.

Now, so far as the reference to the juniors in the Allahabad High Court or in Gujarat and other things are concerned, Sir, the information is not available, and I am sorry I will not be able to say anything in that regard.

With reference to the recruitment

in each High Court, well, Sir, I do not know whether you would call upon me to give the details, but if you would kindly permit, I will lay the information on the Table of the House.

MR. CHAIRMAN: The question does not involve that answer.

SHRI SHIV SHANKAR: Very good, Sir.

MR. CHAIRMAN: You are entitled to ask another supplementary. Mr. Pande.

श्री विश्वम्भर नाथ पांडे : मैं सदर साहब, आपकी मार्फत, न्याय मंत्री से यह जानना चाहता हूँ कि क्या मुख्तलिफ हाई-कोर्टों की बार एसोसियेशनों में माइनारिटी कम्युनिटी के शूडूल्ड कास्ट और शूडूल्ड ट्राइब्ज के सीनियर ऐडवोकेट्स अबलेबुल नहीं हैं जिनकी तरफ न्याय मंत्री की निगाहें नहीं जाती और क्या आइंदा वह इस बात को देखेंगे कि आपके पास जो रिकमेंडेशंस आती

हैं उसमें वह खास तौर पर इस बात का ध्यान रखेंगे कि बार एसोसियेशनों में हाईकोर्ट के कितने सीनियर ऐडवोकेट हैं शूडूल्ड कास्ट और शूडूल्ड ट्राइब्ज या माइनारिटीज कम्युनिटीज के और उनकी अपाईटमट के मुतालिक वह ध्यान रखेंगे ?

दूसरी चीज मैं यह भी अर्ज करना चाहूंगा कि क्या वह इस बात को देखेंगे कि महिलाओं में कितने सीनियर ऐडवोकेट हैं जो 10-10, 15-15 वर्षों से प्रैक्टिस कर रही हैं लेकिन उनके नाम यहां आते हैं तो दब जाते हैं। तो मैं यह चाहूंगा कि क्या कोई हाई कोर्ट के जजों की मुकर्ररी के लिए 'मिनिस्टर आफ जस्टिस की स्वीट विल' नहीं छोड़ी जाएगी बल्कि कोई ऐसी प्रक्रिया इस्तेमाल की जाएगी जिसके जरिए सही तरीके से सही आदमियों की नियुक्ति हो सके ? मैं आपके जरिये यह भी बात साफ कर देना चाहता हूँ कि जब मैंने यह सवाल किया तो न तो हाई कोर्ट के जजों के मुतालिक, न सुप्रीम कोर्ट के जजों के मुतालिक, उनकी इटिग्रिटी, उनकी आनेस्टी या काबिलियत के मुतालिक शक करने का कोई सवाल था, लेकिन चूनांचे यह सवाल बार-बार उठता है, इस पर पब्लिक डिस्कशन होते हैं, बहुत बहस होती है, बहुत गलत-फहमियां फैलती हैं, इसलिए मैंने यह सवाल किया।

SHRI SHIV SHANKAR: Sir, may I submit that so far as the question of consideration of the lawyers belonging to the minorities and the Scheduled Castes as also to the women members of the bar is concerned, I will assure the House that we will give the topmost priority to them since it is our article of faith that social justice has got to be necessarily achieved. So far as the question of recruitment policy is concerned, I am aware that it suffers from certain infirmities, and we would certainly take steps to see that a proper formula, as far as possible, an objective

formula, is evolved for the purpose of recruitment of judges. Sir, my friend has said that the Minister of Law and Justice has the discretion. I may submit, and, Sir, you are very well aware, that the Minister of Law and Justice comes into the picture at a very very late stage after the recommendations are made from the Chief Justice and the concerned state.

MR. CHAIRMAN; Mr. Antulay.

SHRI A. R. ANTULAY; Mr. Chairman, Sir, is it not a fact that under the article of the Constitution which the hon. Law Minister is well aware of, the appointments are to be made by the Government in consultation with the High Court and the Supreme Court? Now the consultation may be in regard to not person A or person B. The Government can ask both the High Court and the Supreme Court to give a panel of names out of which the selection can be made by the Government. Is there anything in the Constitution to bar the Government from initiating the process by asking the High Court and the Supreme Court to submit a panel of names out of which selection can be made by the Government?

SHRI SHIV SHANKAR: I do not know that there is any impediment to calling for a panel for the purpose of deciding as to who should be chosen, though this process was not followed in many a case. But I must submit that there is no bar for calling for a panel. And then if we pick up a particular person, that can again be put to the Chief Justice or the State Government. But if they have already put him in the panel, I do not think again the question of consultation will arise. We can proceed. I do not think there is any bar.

MR. CHAIRMAN: Mr. Zakaria, do you want to say anything?

SHRI N. K. P. SALVE; Sir, may I submit that there are certain norms? *(Interruptions)* Dr. Zakaria is my

friend, but there are certain norms in this House. *(Interruptions)* The same person is usually not given a second chance unless all others have had their turns. I am only submitting to you . . .

MR. CHAIRMAN: Yes, go on.

SHRI PILOO MODY: I would like to know whether this question is restricted only to the ruling party.

MR. CHAIRMAN: No, no.

SHRI MANUBHAI PATEL: Again not more than one person of the same party should be called at the same time. It should be one by one: after one question from that side, the next turn we must get. Otherwise, Sir, after calling two or three Members, you may say "Sufficient material has come out. So, next question." Then We will not get a chance.

MR. CHAIRMAN: Will you hear me? This question is important. Therefore, I am allowing a large number of questions to be raised. So, nobody will be left out.

SHRI B. SATYANARAYAN REDDY; Mr. Chairman, Sir, I have been asking you from the very beginning to allow me one question. So far not a single chance has been given to me to put a question.

SHRI N. K. P. SALVE: My supplementary arises out of the answer of the Law Minister to part (b) of the question. Sir, much as it is desirable that we do not discuss the appointment of judges of the High Court and of the Supreme Court in this august chamber, for it does not conduce to either the independence or the respect of the judiciary . . .

SHRI KALYAN ROY: Of course, we can discuss. *(Interruptions)*

SHRI N. K. P. SALVE: It is my view of the matter. That, according to me, will not conduce either to the respect or the independence or for that matter, the healthy growth of the three organs of the Constitution.

(Interruptions) My learned friend is entitled to his puerile views. I am entitled to my mature view.

MR. CHAIRMAN: Please formulate your question.

SHRI N. K. P. SALVE: I am coming to the question. I beg of you to kindly consider this, sir, I would not take long at all. That has happened in this House, in the other House, in every House. We did not want this to be brought here on a political level. Notwithstanding that, is it purely an accident—you may not be able to give this information just now, you can however collect it and give us—that out of a large number of judges, out of 109 or so, who have been appointed in the last year, belong to the same community to which the Law Minister of the Janata Party belonged? I want to know whether or not this is a fact. This information is necessary in order to exonerate both the Law Minister and the judges who have been appointed. Therefore if he does not have the information just now, will he collect the information and give it to the House? Secondly, is it a fact that the Lok Dal Ministry and its Law Minister in the last week of their regime appointed to the Maharashtra High Court judges recruited from one particular community which has been the backbone of the RSS? Is it also correct—it was on record, it was brought to the notice of the Law Minister—that some of them made only a quinquennial appearance in the High Court?

SHRI PILOO MODY: It is true that our Law Minister was not a Brahmin.

SHRI DEVENDRA NATH DWIVEDI: The Allahabad High Court is referred to as the Aggarwal Samaj Vidyalaya.

MR. CHAIRMAN: Mr. Dwivedi, please don't enter into a discussion.

SHRI SHIV SHANKAR: I have not worked out on that basis. But I am entirely in the hands of the House. If you so ordain me, I shall certainly work out and report . . .

SHRI PILOO MODY: On the contrary you should refuse to do it.

(Interruptions)

MR. CHAIRMAN: I probably have a greater experience than you all of recruiting judges.

श्री बी० सत्यनारायण रेड्डी : श्रीमन्, मैं माननीय मंत्री महोदय से यह कहना चाहूंगा कि जो भी वे जवाब दे रहे हैं वह तसल्लीबख्श नहीं हैं। वे जवाब को टाल मटोल करने की कोशिश कर रहे हैं। ऐसा मालूम पड़ता है कि वे सही तरीके से तैयार होकर नहीं आए हैं। अगर ऐसा है तो वह कहें कि वे पूरी तरह से तैयार होकर नहीं आए हैं। मैं समझता हूँ कि हाउस की तरफ से जरूर उनको टाइम दिया जाएगा क्योंकि वे अभी नए हैं, हो सकता है कि उनको पूरा समय न मिला हो। अभी उन्होंने जितना जवाब दिया है उसको हम सुन रहे हैं। वह जवाब तसल्लीबख्श नहीं है। यह कहा है कि इस सिलसिले में कोई भिदा तय नहीं है। ऐसी हालत में मैं उनसे यह स्पष्ट रूपसे जानना चाहता हूँ कि अगर इस सिलसिले में कोई भिदा तैयार नहीं है और वे जवाब देने के लिये पूरी तरह से तैयार होकर नहीं आए हैं तो वे यह बतायें कि वे कितने दिनों में तैयार होकर आ सकते हैं? दूसरी चीज मैं यह कहना चाहता हूँ कि मंत्री महोदय सवालों का जो जवाब दे रहे हैं उसमें सवालों का ठीक प्रकार से जवाब न देकर सदस्यों के ध्यान को दूसरी तरफ ले जा रहे हैं। मैं चाहता हूँ कि वे ध्यान को दूसरी तरफ ले जाने की कोशिश न करें।

SHRI SHIV SHANKAR: I can say with confidence that I am more than prepared for all the questions. If my

friend would like to put a question in a vague form as he is trying to say that I am not prepared, I regret I cannot agree with him. As I said, . . .

SHRI JAGDISH PRASAD MATHUR: Will it be correct to assume that further on Government will take judges . . .

MR. CHAIRMAN: Will the honourable Member sit down?

SHRI PILOO MODY: According to the protocol you should first ask the Minister to sit down.

SHRI B. . SATYANARAYAN REDDY: I wanted to know how much time the Minister will take to gather this information. That is my specific question.

MR. CHAIRMAN: The question Hour is really over, and after this answer I will declare the question Hour over. Please reply. (No reply).

The Question Hour is over.

WRITTEN ANSWERS TO QUESTIONS

उच्चतम न्यायालय और उच्च न्यायालयों में अनिर्णीत मामले

*5. श्री हरी शंकर भामड़ा :
श्री सुन्दर सिंह भंडारी :
श्री जगदीश प्रसाद माथुर :

क्या विधि, न्याय और कम्पनी कार्य मंत्री यह बताने की कृपा करेंगे कि :

(क) इस समय भारत के उच्चतम न्यायालय और प्रत्येक उच्च न्यायालय में पृथक्-पृथक् कितने मुकदमे अनिर्णीत पड़े हैं;

(ख) क्या यह सच है कि हाल ही में भारत के मुख्य न्यायाधीश ने कहा है कि यदि इन मुकदमों को शीघ्र ही निपटाने के

966 RS—2.

लिये कुछ न किया गया तो भारत की न्याय व्यवस्था अपने ही बोझ से दब कर छिन्न-भिन्न हो जायेगी ; और

(ग) यदि हां, तो सरकार स्थिति में सुधार करने के लिये क्या कदम उठाने का विचार रखती है ?

t [Pending cases in the Supreme Court and the High Courts

*5. SHRI HARI SHANKAR BHA-BHRA:
SHRI SUNDER SINGH BHANDARI:
SHRI JAGDISH PRASAD
MATHUR;

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

(a) what is the number of cases pending at present in the Supreme Court of India and in each High Court separately;

(b) whether it is a fact that recently the Chief Justice of India had said that if "steps were not taken for quick disposal of those cases, India's judicial system would collapse under its own weight; and

(c) if so, what steps Government propose to take to remedy the situation?]

विधि, न्याय और कम्पनी कार्य मंत्री (श्री शिव शंकर) : (क) उच्चतम न्यायालय और उच्च न्यायालयों द्वारा दी गई जानकारी का एक विवरण, सदन के पटल पर रख दिया गया है ।

(ख) जी, हां ।

(ग) अनेक जटिल कारणों से वर्तमान परिस्थिति पैदा हुई है । ऐसी परिस्थिति में यह आवश्यक है कि न्यायिक प्रशासन में सुधार एक सतत प्रक्रिया हो । सरकार

†[] English translation.