

mation which the hon. Member could communicate to me, I will act upon it.

SHRI JAHARLAL BANERJEE: I would request the hon. Minister to let me know how many times the Chairman-cum-Managing Director of the NIDC undertook tours abroad during the last five years as Chief Consultant to the NIDC?

SHRI GEORGE FERNANDES: Sir, I will need to find out how many times the Chairman of the NIDC went abroad in the last five years. However, let me add that the NIDC is a consultancy agency and it has been doing a lot of consultancy work, particularly in West Asian and African countries and also in South-east Asian countries, and as part of that consultancy work, it is imperative that the Chief Executive who is the man, really administering this unit goes abroad. I have no reason to believe that there have been any trips outside unconnected with his normal work. However, I will make inquiries into this and give the information to the Member.

SHRI BIR CHANDRA DEB BURMAN: May I ask the hon. Minister whether the Accounts Officer, Shri P.P. Gambhir—whose position has been explained in reply to Unstarred Question No. 1233 dated 26-2-75 and Unstarred Question No. 3817 dated 12-5-76 and against whom some departmental proceedings had been initiated and who had been found guilty—was not fully qualified and was doing the work as Superintendent (Accounts) and as Assistant (Accounts) previously?

SHRI GEORGE FERNANDES: Shri P. P. Gambhir—If find—is the Accounts Officer of this establishment. But I will investigate into what the earlier complaints about this man were and whether he needs to be there or not.

SHRI BIR CHANDRA DEB BURMAN: There are complaints that...

SHRI GEORGE FERNANDES: I will look into them. You are referring to something of February, 1975 and May, 1976. We are in 1978. I will certainly need to know about it because that was not part of the question. The question related to the overall administration of the NIDC.

SHRI SURENDRA MOHANTY: May I know, Sir, whether it is a fact that the Administrative and the Personnel Divisions continue to be headed by some retired Colonel who is an under-graduate and inexperienced in administrative and personnel matters? May I know what steps the Ministry has taken to solve this problem?

SHRI GEORGE FERNANDES: Sir, we have a retired Colonel as the Manager of Staff in this unit. I wonder whether there is any specific suggestion which the hon'ble Member wants to convey about a retired Colonel being the head of the Staff Management.

Employment guarantee scheme bill of Maharashtra

*362. SHRI S. K. VAISHAMPA-YEN:†

SHRI DEORAO PATIL:
SHRI GOVINDRAO RAM
CHANDRA MHAISEKAR:
SHRI L. R. NAK:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that the Maharashtra Government have sent the Employment Guarantee Scheme Bill to the Central Government for President's assent; and

(b) if so, when the Bill was received by the Central Government and

†The question was actually asked on the floor of the House by Shri S. K. Vaishampayan.

what action has been taken in this regard?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI S. D. PATIL): (a) Yes, Sir.

(b) The Bill was received on 30th August, 1977. After examining it the Central Government have written to the State authorities making certain suggestions regarding the Bill.

SHRI S. K. VAISHAMPAYEN: Sir, it is almost ten months since this Bill has been passed. This Bill gives effect to the right to work as enshrined in article 41 of our Constitution. It also aims at giving employment to persons in the rural areas. Secondly, Sir, the Bill has received unanimous, unequivocal support of all the parties including the Opposition in the Maharashtra Legislature, some of which now constitute the Janata Party.

Sir, these are very important points. Thirdly, Sir, the Government has taken steps to levy a certain special tax in order to meet the expenditure and they have created an Employment Guarantee Fund also. In view of this, I do not understand why the Government is delaying and merely making suggestions to the State Government to make certain changes. It is such a welcome measure. The Government should not have taken any objection at all to it. May I know from the hon'ble Minister why the Government has delayed so much in giving assent to the Bill? What are their suggestions to the State Government? Will the hon'ble Minister consider not delaying it now at least?

SHRI S. D. PATIL: The objects of the Bill are above any criticism. But the delay which the hon'ble Member is attributing to us is not on our account. The Bill going into the facts of the case was received on 12-7-1977. The Maharashtra Government asked for our administrative approval. Before this letter reached us they introduced the Bill on 13-7-77 with-

out waiting for our approval. They for our administrative approval. (In-4-8-1977 in the Assembly and in the Council on 8-8-1977 without waiting for our administrative approval. *Interruption*) I am explaining. If you are not satisfied I will again clarify.

In between, when the matter was under discussion, I personally went and met the Chief Minister of Maharashtra in the month of December... (*Interruption*). There were certain objections at our end which we have suggested to them.

SHRI DEORAO PATIL: What are they?

SHRI S. D. PATIL: Let us have some patience. I am replying to the question. They have sent the reply to which also we have sent a reply. On an important point we have said that the Central Government will not accept it. So the matter is under consideration. Now, what exactly we have suggested to them will not be in the public interest to disclose at this stage.

SHRI S. K. VAISHAMPAYEN: Certain suggestions have been given. At least this House is entitled to know the Maharashtra Government's reply to which the Government is taking objection. We must also know all the facts so that we should be able to persuade the government there. This is a very welcome measure, a very revolutionary measure even from the point of view of the Government. We should know the full facts of the case.

SHRI S. D. PATIL: The Government of Maharashtra in their enthusiasm started the Employment (Guarantee) Scheme, 1972. He knows its financial impact. They have estimated a certain amount, in crores, but that also is not acceptable to the Central Government because the impact will be much more. Secondly, they have provided certain clauses which

unnecessarily involve the Government in certain financial implications. It may be that it is within the reach of Maharashtra, but as far as the other States in the country are concerned, we will be pressed for certain commitments which we will not be able to honour. That exactly is our difficulty.

SHRI S. K. VAISHAMPAYEN: According to my information...

MR. CHAIRMAN: No, no.

SHRI S. K. VAISHAMPAYEN: I have not put my second supplementary.

MR. CHAIRMAN: No, no, no. This will be the third one.

SHRI S. K. VAISHAMPAYEN: Only one question.

MR. CHAIRMAN: No. You have already put. It is on record that you have put two supplementaries and you have no right to put a third supplementary. Yes, Shri Deorao Patil. (Interruptions). . . Silence, please, so that we can hear and get a reply.

श्री देवराज पाटील : बिल के जो प्रमुख प्रोविजनस है, उसमें एक प्रोविजन यह है कि "Every adult person in the rural area in Maharashtra shall have a right to work, i.e., right to get guaranteed employment for doing unskilled manual work and to receive wages thereof weekly".

एक दूसरा प्रोविजन उसमें जो है वह यह कि on receipt of the letter of employment if Government is unable to provide employment, the person shall be entitled to receive an unemployment allowance.

गवर्नमेंट को काम देना है। अगर नहीं दे सकते तो चार दिन के अन्दर उनको अनएम्प्लायमेंट एन्डोव्स देना चाहिये। और उसके

लिये जो प्रोविजन है एस्टैबलिशमेंट आफ एम्प्लायमेंट गारण्टी फण्ड, वह गवर्नमेंट ने तैयार किया है। मैं पूछना चाहता हूं मंत्री महोदय से कि यह जो बिल पास किया गया है, उसमें संवैधानिक अड़चन है क्या, तात्त्विक अड़चन है या स्टेट गवर्नमेंट राइट के बाहर की बात है, क्या कोई कम्प्लीकेशन है। बेरोजगारी की समस्या बहुत गम्भीर है। उसको सात, आठ महीने हो गये। मैं पूछना चाहता हूं कि क्या मंत्री महोदय को मालूम है कि महाराष्ट्र कांग्रेस कमेटी has passed a resolution.

अगर चार, आठ दिन में इसको परमिशन न मिला तो उसके लिये आन्दोलन करेंगे। क्या मंत्री महोदय को यह भी मालूम है कि जनता पक्ष के यूथ सम्मेलन में इसके बारे में एक रेजोल्यूशन पास किया कि अगर वह कन्स्टीट्यूशन में राइट टु वर्क की प्रोविजन नहीं करते, तो उसका आन्दोलन करेंगे और क्या यह बात भी सच है कि जनता पार्टी के अध्यक्ष ने भी सम्मेलन में एक सन्देश भेजा कि सभी को रोजगार मुहैया करने की संवैधानिक गारण्टी सही दिशा में कदम होगा और निश्चित सरकार के इरादे को व्यक्त करता है। तो क्या संविधान में इसके बारे में प्रोविजन करने के लिये तैयार हैं।

SHRI S. D. PATIL: Sir, I have already said that the objects are very laudable, but whether we will be able to implement all the Utopian ideas is a matter for the consideration of the Government. The Central Government, even though it is led by the Janata Party, is not a Janata Party Government; it is a national Government. There are various implications in the Bill. For example, I will point out...

SHRI BHUPESH GUPTA: Sir, on a point of order.

MR. CHAIRMAN: No point of order.

SHRI S. D. PATIL: I do not yield.
(Interruptions)

SHRI RAMANAND YADAV: It is not a party Government.
(Interruptions)

MR. CHAIRMAN: I will give you a chance to put a supplementary if you want to seek a clarification.

SHRI BHUPESH GUPTA: What Government are you?

SHRI S. D. PATIL: I will point out one single thing. For example, the definition of "Adult person" in clause 2 means a person who has attained the age of 18 years. Now, if we allow this particular definition to stand, it will have a number of implications. Even a person who is not able-bodied, a person who is a leper or a person who is disabled, will also come under this particular definition. Therefore, we have laid certain... (Interruptions)... I am not exhausting all the suggestions which you have made because they are under correspondence and I am not supposed to disclose all of them. But I was saying it just by way of an example. Now the point which is made out by Mr. Deorao Patil is that it has got the blessings of the Janata Party President. I do not deny it. But there are certain implications which the State Government will have to consider. The matter is being discussed for the second time with the Chief Minister, who has been recently here and we hope that the matter will be cleared as soon as possible.

SHRI GOVINDRAO RAMCHANDRA MHAISEKAR: Sir, as we understand...

(Interruptions)

MR. CHAIRMAN: There are already some names on the list. Unless I have exhausted those names, I cannot allow other Members.

SHRI GOVINDRAO RAMCHANDRA MHAISEKAR: ... one of the objections is to the provision of the payment of Re. 1 per day to a person who cannot be employed by the State Government for manual labour. Sir, apart from this, my point is that the scheme is not utopian because in this House I had said that the Maharashtra Government would give Rs. 45 crores for a population of 4 crores and the Government of India at the most would give Rs. 750 crores for a population of 60 crores. I do not know what is utopian in this particular Bill. I would like the hon. Minister to tell us as to what is utopian about this.

SHRI S. D. PATIL: Sir, the idea of giving doles is not relished by the Government of India for certain reasons. The Prime Minister has said on the floor of the other House that, if we go on extending this idea, it will involve an annual outlay of Rs. 4000 crores for the whole of India. Now whether to allow it or not, is a matter to be considered.

SHRI L. R. NAIK: Sir, from the statement of the hon. Minister it is evident that he has welcomed the scheme. It is also seen that the Government of Maharashtra have arranged for the funds. Under article 41, the right to work is guaranteed, provided, of course, a provision for funds is made. When this is made, is it constitutional on the part of the Government of India to deny the assent that has been sought for?

MR. CHAIRMAN: But he has not said that he has denied it. He has said...

SHRI L. R. NAIK: Sir, it is as good as denying it. It has been there for the last 10 months and they have started elaborate enquiries.

MR. CHAIRMAN: It is in the process of being decided.

SHRI S. D. PATIL: Sir, we are not denying it. Under article 41, the provision is that we can give assent or withhold it. There is no denial or being partial about it. We are in the stage of correspondence and discussion. So the possibility of giving assent is not excluded.

SHRI L. R. NAIK: I do not know why the Government of India should entertain such a fear that many State Governments may put forward such schemes. This is against social justice that has been guaranteed under the Constitution. May I know from the Minister why he has entertained that fear?

MR. CHAIRMAN: Please resume your seat.

श्री प्रेम मनोहर : श्रीमन्, पिछले दिनों जो धन बटा है उसमें अधिकांश रुपया कांग्रेस पार्टी के कार्यकर्ताओं को बटा है। मैं मंत्री महोदय से जानना चाहूंगा कि इस तरह से इस योजना के अन्तर्गत जो रुपया केन्द्रीय सरकार देती है उसका उपयोग इस तरीके से न हो, इसका प्रावधान आपने किया है या नहीं।

SHRI S. D. PATIL: Sir, the Government has no knowledge about misuse of the funds because up to this time the scheme was not there as a statutory scheme; it was a part of the Government scheme.

श्री महेन्द्र मोहन मिश्र : श्रीमन्, मैं माननीय मंत्री महोदय से यह जानना चाहता हूँ कि इस तरह की बनिफिशियल इम्प्लायमेंट गारन्टी स्कीम जनता पार्टी विरोधी सरकार महाराष्ट्र में है क्या उससे उनको भय लगता है कि इसका यश विरोधी पार्टी को मिलेगा, इसलिए उस स्कीम को वह लागू करने के लिए तैयार नहीं हैं ?

SHRI S. D. PATIL: Sir, I repudiate the suggestion that, because the Maharashtra Government happens to

be a non-Janata Government, we are withholding it. The delay in assent does not in any way prevent the scheme from being implemented because they have already been implementing it since 1972. They only want to give it statutory recognition because it is mentioned that in respect of certain things they have to take the assent of the Central Government.

श्री नत्थी सिंह : श्रीमन्, मैं मंत्री महोदय से यह जानना चाहता हूँ कि जनता पार्टी ने दो घोषणायें अपने घोषणापत्र में की हैं। एक तो प्रापर्टी का राइट हटाने की और दूसरा राइट टु वर्क देने का। अब पश्चिमी बंगाल, में, पंजाब में बेरोजगारी भत्ता देने का उन्होंने तय किया है। महाराष्ट्र में इम्प्लायमेंट गारन्टी स्कीम है। क्या मंत्री जी यह उचित नहीं समझते कि अब वह समय आ गया कि जब हमें एक समयबद्ध योजना के अनुसार काम के अधिकार को कस्टीडियन के अन्तर्गत लाना चाहिए ?

SHRI S. D. PATIL: Sir, so long the position has been that it is a Directive Principle. We do want that the whole House consent to the amendment of the Constitution. It may come in due course.

SHRI ANANT PRASAD SHARMA: Sir, if I should say, it is a directionless Government and a Government which has not been able to come out with any concrete scheme. The other day I put this question to the Hon. Prime Minister whether they had got any concrete proposal for solving the problem of unemployment, but the question was not replied to. In view of that, Sir, if any State Government comes out with a proposal like this—particularly in view of the fact that it is a Congress coalition Government now and in the absence of any concrete proposal from them—may I know from the Government what the difficulty is in their way of accepting this scheme when it is going to solve the problem of unemployment in a particular State?

SHRI S. D. PATIL: There are several considerations. They want our assent because the Bill militates against certain provisions of the Constitution and other labour laws and they have chosen to have administrative approval. In their zeal they immediately introduced the Bill and passed it without waiting for our assent. Had they waited for some time, we would have had discussions and given them instructions which they could have followed before introduction, if they wanted. In spite of that the matter is under consideration for one year. We have either to give assent or withhold it; there is no mid-way in between. I have already said that the difficulty is not of one State. Financially, Maharashtra may be a comfortable State, but it creates problems for other States when you have to give statutory recognition to the scheme under the law. And there is no prevention of implementation of the scheme since 1970, which they have pursued.

SHRI MANUBHAI PATEL: In view of the Sixth Plan document which is being considered by this Hon. House, in the objectives of which it has been clearly stated that within a period of ten years with a time-bound programme, unemployment will be eradicated, may I know, whether such schemes are not required for which the Central Government has also to share the burden?

SHRI S. D. PATIL: Sir, the time will come when the Central Government will have to take a major burden of the whole scheme. If the right to work is to be implemented by a statutory provision, we have to think twice before we leap in the dark.

SHRI V. B. RAJU: Sir, what is it that is actually standing in the way of the Government of India advising the President to give assent to the Bill? I want to know, firstly, whether the State Legislature has the power to enact the Bill or not and whether the subject on which the legislation has been made is within the compe-

tence and purview of the State Government or not, and, secondly, whether any provisions of the Bill are repugnant to any Central law. What are the guiding factors for the Central Government to advise the President? Sir, if there is anything illegal, unconstitutional, there is the judiciary to look to it. Who are these people? The executive is not sitting over the Legislature of a State, which is sovereign for that purpose.

SHRI S. D. PATIL: Sir, the difficulties, I have already pointed out, and they are under correspondence. Because there are certain things, you ask for assent. Supposing the Legislature is competent and there is no assent required from the Centre, the matter ends. But since it requires assent under article 201, it means that it should be examined.

SHRI V. B. RAJU: What are those things? The House wants to know what those things are.

SHRI S. D. PATIL: The difficulties which the Central Government sees are under the correspondence. So, I cannot disclose the contents of the correspondence.

SHRI KRISHNARAO NARAYAN DHULAP: Sir, the Hon. Minister, while replying to one of the supplementaries has said that there are certain difficulties and that, therefore, they have advised the President to withhold assent to be given to the Bill. And in the course of other replies he has stated that the Maharashtra State itself is viable financially to carry out the scheme of giving employment to people in the rural areas. Not only that, the Maharashtra State had levied a cess and they are collecting yearly Rs. 50 crores from the people for the execution of this scheme. Now, the hon. Minister says that there is no constitutional difficulty as such but the only difficulty, according to him, is that if assent is given by the President to the Maharashtra Bill, then problems would be created in other States. So if Maharashtra is a pro-

gressive State and they want to implement what is provided in the Constitution, this Government which is a reactionary Government has to stop the Maharashtra Government from implementing the provisions of the Directive Principles of the Constitution. So, whether it will create difficulties in other States or not, if it is not unconstitutional and if the scheme itself is viable and if the State Government is for the implementation of the Scheme, what are the other difficulties coming in the way of the Government in giving assent to this Bill?

SHRI S. D. PATIL: Sir, the Government has not recommended to the President for withholding assent. The matter is being processed. Sir, brave gestures are made. Formerly they wanted to have an administrative sanction from this Government. Suddenly they introduced the Bill and got it passed in a hurry. I do not know the implication. But the question is, the estimate they have made about the unemployment allowance is also far less than what is needed. The second point is regarding certain provisions of the Bill. When you make the right to work as a statutory right, it is repugnant to certain provisions of the labour laws. Now, if you have repugnant laws, we can get over them only by the provision of assent of the President. So, if you want the assent, then the Bill must be thoroughly processed and the pros and cons must be weighed. And that is being done.

SHRI B. N. BANERJEE: Sir, I will talk about something more fundamental. The whole difficulty has been created by reason of the provisions of articles 200 and 201 of the Constitution. Sir, under article 200 of the Constitution, when the legislature of a State—both the Houses—passes a Bill, it goes to the Governor for assent. And it is provided therein that the Governor may either withhold assent or send the Bill to the President for consideration; and he is bound to send the Bill for consideration if it relates to the powers of the High Court. This is the

difficulty. Now that the Government is contemplating a comprehensive Bill for amendment of the Constitution, will the Government consider why it is necessary to make a provision under article 200 of the Constitution that any Bill which a State legislature is competent to pass should be sent to the President for assent?

SHRI S. D. PATIL: Sir, it is a wider matter for constitutional amendment, and I am not in a position to say one way or another.

SHRI BHUPESH GUPTA: Sir, the hon. Minister made certain unnecessary observations that the Maharashtra legislature acted hurriedly and it did this or that thing. This is not called for here on the part of a Central Minister. He should not cast aspersions on the State legislature in regard to their legislative action in the manner in which he has done.

As far as article 200 is concerned, we are for deletion of that article. Sir, he said that it is being processed. There is no constitutional bar whatsoever to assent being given because the Constitution does not say in this article or in the article that follows that assent will be given only when the Government is satisfied that there is nothing in the Bill passed by a State legislature which may be challenged as ultra vires the Constitution. It is not there at all. In fact, the hon. Minister himself makes it clear that the assent is being withheld on political grounds because some good thing has been done—West Bengal also has done it—and they do not perhaps want to see that it gets going. Do I understand that now the special powers which they enjoy under Article 200 will be used for such political misuse or for brow beating the State Governments to fall in line with the Centre or for obstructing and preventing enactment of some good legislation by the State Governments? This is what the Government should make clear. In any case, the Govern-

ment should tell us exactly on what legal and constitutional grounds the President is delaying—I am putting mildly—the assent to this measure and why the Prime Minister is not advising the President that in the interests of proper Centre-State relations that assent should be given. If there is anything wrong, later on it could be tackled in a court of law.

SHRI S. D. PATIL: I strongly repudiate the suggestion or insinuation made by my old friend, Mr. Bhupesh Gupta, that assent was withheld on political grounds because it is an Opposition party which is in power in Maharashtra....

SHRI LAKSHMANA MAHAPATRO: The Janata Government is not able to do anything anywhere.

SHRI S. D. PATIL: It is not withheld on political grounds or for political reasons. 'Assent' means subject to the satisfaction of the Government. 'Assent' does not mean anything which is in the air, which is in vacuum. . .

(Interruptions)

SHRI BHUPESH GUPTA: That is where politics comes in.

SHRI S. D. PATIL: No, no

Discontinuance of the weekly programme 'Phool Khile Hain Gulshan Gulshan'

*363. **SHRI SHRIKANT VERMA:†**
SHRI SHYAM LAL YADAV:

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

(a) whether it is a fact that a weekly programme of the Bombay Doordarshan called "Phool Khile Hain Gulshan Gulshan" has been discontinued; and

(b) if so, what are reasons therefor?

†The question was actually asked on the floor of the House by Shri Shrikant Verma.

THE MINISTER OF INFORMATION AND BROADCASTING (SHRI LAL K. ADVANI): (a) to (b) No, Sir. The frequency of the programme "Phool Khile Hain Gulshan Gulshan" has, however, been reduced from once in a week to once in a fortnight with effect from November, 1977. This was in pursuance of the present policy to reduce the commercial film content of Doordarshan programmes to the extent possible and provide in its place other interesting programmes with a view to improving the tastes of the viewers.

श्री श्रीकान्त वर्मा : महापति महोदय, पिछले एक साल से सूचना और प्रसारण मंत्रालय में ऐसी घटनाएँ घट रही हैं कि बावजूद इसके कि मेरे मन में सूचना मंत्री महोदय की ईमानदारी और योग्यता के लिये आदर है, इन घटनाओं से उनकी प्रतिष्ठा बढ़ेगी नहीं। इस प्रोग्राम को बम्बई की एक प्रसिद्ध स्टार बेबी तबस्सुम कनडकट किया करती थीं। लेकिन उनका अपराध यह था कि वह मुसलमान थी। इसलिये यहां से सूचना मंत्रालय के एक बड़े अफसर का फोन वहां गया कि इस प्रोग्राम को कुछ दिनों के लिये स्थगित कर दिया जाय। उसके बाद सैंकड़ों फोन बेबी तबस्सुम के घर पहुंचे तो उन्होंने कहा कि मुझे इस बारे में कुछ मालूम नहीं है। उन्होंने टी० वी० सेंटर पर फोन किया तो उन्होंने कहा कि इस बारे में हमें कुछ मालूम नहीं है। इस प्रकार से बेबी तबस्सुम को हटाने के लिये इन्होंने यह तरकीब निकाला क्योंकि वह एक मुसलमान थी

(Interruptions)

वाला साहब देवरस की फौज मंत्रालय चला रही हैं। मैं मंत्री महोदय से यह जानना चाहता हूं कि

(Interruptions)

श्री जगदीश प्रसाद माथुर : जो आदमी हाउस के अन्दर मौजूद नहीं है, उन पर क्यों आक्षेप किया जा रहा है ?