

mals. The Kerala Government have also informed us that they are issuing an executive order banning the slaughter of useful animals in the municipal areas as well.

Information has also been received from West Bengal where there is already a partial ban on the slaughter of animals that they would be taking adequate steps to enforce the existing legislation strictly and ensure improvement in the breeds of cattle.

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STATEMENT BY MINISTER REGARDING THE SCHEME AD HOC INTERIM RELIEF IN THE FORM OF EX-GRATIA GRANT TO THE INDIAN NATIONALS, COMPANIES ETC. WHOSE ASSETS IN PAKISTAN WERE SEIZED BY THE GOVERNMENT OF PAKISTAN DURING AND AFTER THE INDO-PAK CONFLICT OF 1965

THE MINISTER OF COMMERCE (PROF. D. P. CHATTOPADHYAYA):

Sir, during and after Indo-Pakistan conflict in September 1965, the Government of Pakistan had seized all properties/assets (moveable and immovable) of Indian nationals in Pakistan, and vested in the Custodian of Enemy Property, Government of Pakistan under Defence of Pakistan Rules, the value of which amounted to Rs. 109 crores.

As a measure of reciprocity, the Government of India were constrained to seize and vest all immovable and specified moveable properties of Pakistani nationals, companies etc. in India in the Custodian of Enemy Property under the Defence of India Act, 1962, the value of which was estimated at Rs. 29.40 crores.

On being approached by the Indian nationals whose assets had been seized by the Pakistan Government, the matter was considered by the Cabinet and the Government of India had announced in 1971 (vide Notification dated 15-3-1971) a Scheme for payment of *ad hoc* interim relief in the form of *ex-gratia* grant from the Consolidated Fund of India @ 25 per cent of the value of verified claims restricted

to a maximum of Rs. 25 lakhs. The rationale of payment @ 25 per cent of the value of the verified claims was that as against the value of Rs. 109 crores of assets of Indian nationals seized by the Government of Pakistan, the value of such assets of Pakistani nationals seized in India amounted to only Rs. 29.40 crores, i.e. 25 per cent (roughly).

These payments were to be made against bonds to be executed by the recipients as such payments were to be adjusted as and when the properties of Indian nationals concerned were restored to them. Thus this Scheme was not meant to compensate for the loss, which was expected to be adjusted later. The objective of the Scheme was to provide an *ad hoc* interim relief at the uniform rate of 25 per cent of the verified claims to all concerned, whose properties had been lost and seized in Pakistan. The Scheme is equally applicable to the migrants from former East Pakistan and West Pakistan.

Due publicity to this Scheme was given through various media and particularly through vernacular press.

The verification of claims is a complicated and time-consuming process. Hence, to ensure expeditious and fair disposal of the claims, a special Panel was set up in April 1974 with the Custodian of Enemy Property as Chairman, and a senior Judge of the West Bengal Judicial Service and a senior Revenue Officer of the Land Records Department of West Bengal Government as Members. The Panel normally sits in Calcutta for personal hearings, examination of the relevant records and witnesses etc.

To further streamline and accelerate the process of the pending claims, certain guidelines were laid down in 1975 and since then a considerable improvement has been noticed in the disposal of the claims. Till the end of July 1976, 2480 cases were disposed of by the Custodian of Enemy Property resulting in actual payment in 1715 cases totalling Rs. 12,42,57,000. Out of 1715 paid up claims, the bulk of 1284 claims pertain to small value claims.

[Prof. D. P. Chattopadhyaya]

The Government is having a second look at the Scheme and a proposal is under consideration to ensure more equitable payment to the poorer section of the claimants. I would like to assure the House that the views put forth by the Hon'ble Member would be given due consideration.

SHRI BHUPESH GUPTA (West Bengal) : I should like to have a little clarification. It is the last day of the session. I wish the statement was made a day earlier when we could have asked for some information.

THE VICE-CHAIRMAN (SHRI RANBIR SINGH) : At 6.00 P.M. we will be taking up your Half-an-Hour discussion. Then there is the Advocates Bill.

SHRI BHUPESH GUPTA : That is why I have asked for a statement. I should like to know from the Government how many of these people have received one lakh and more and the aggregate amount received by them, that is to say, the number of people who have received one lakh and more and the aggregate amount, how many have got ten lakhs and more and the aggregate amount in that category; and if any has got twenty lakhs, that also I should like to know.

Now, Sir, the hon. Minister has said that he would like to hear our views, but when do we give our views? Tomorrow there will not be any session. I can write to you, but when this scheme was made you did not mention. I am not making any personal remarks or any such thing. The whole scheme is based on a very very wrong assumption that an adjustment will be made after the Indian properties seized in Pakistan, including East Pakistan, would be restored to the Indian nationals. Sir, I cannot for the life of me believe that a sensible Government could ever accept such a proposition, even if an assurance was given. Did the Government believe, in March, 1971 when the scheme was formulated, that the Government of East Pakistan or, for that matter, the Government of Pakistan would be restoring the properties worth about Rs. 109 crores to the Indian

nationals? Is it borne out of our experience in the past with regard to the properties that had been left behind by the refugees from West Pakistan and so on? Never. It is quite clear that that assumption is wrong.

The second point is with regard to compensation or whatever *ex-gratia* payment had been fixed on the basis of a rationale. Since we have got one-quarter of the properties seized there, therefore we shall pay money to the extent of 25 per cent of the verified bill. Strange things! Suppose you had seized the stated amount, you would have given 100 per cent of the verified bill. Is that proper? Now, Sir, this is another thing I should like to know. Equity, there is not a trace of it. There is not a trace of equity in this matter at all.

Then, it appears that nearly Rs. 30 crores will have been spent by the time all the claims are disposed of. Most of the money will go to some big people—landlords of the upper categories, business houses and so on. That is another aspect of the matter.

Then, Sir, one point has not been borne out by the hon. Minister's statement. The money is to be paid out of the Consolidated Fund of India. The money is not to be paid out of any pool created here as was done in the case of payment to refugees from West Pakistan. From the Consolidated Fund of India, the tax-payer's money will be paid. For what? For nothing! Just because some nawab's property or some maharaja's property has been seized in East Bengal some years ago, money has to be paid. We do not get anything out of it; we just get nothing. It is not as if we are taking over the assets of a nawab who has been an Indian national and migrated to Pakistan to make payment to an *ex-maharaja* who has come from the erstwhile East Pakistan at that time to India. (*Time-bell rings*). We are asking the tax-payer to pay *ex-maharaja's* and others who have come. Is it public policy? Is it equity? Is it just when four million refugees are there from East Bengal, many of them living in very very

strained economic circumstances? Many of them have not been gainfully employed many have yet to be rehabilitated; many are wandering in the streets. Now we have got thirty crores of rupees from the Consolidated Fund of India to be paid to a handful of landlords. (*Time bell rings*) This is not the policy. I demand, before I sit down, seeking of opinion. Number one. All payments be stopped at once. Inquiries be made, if necessary by a Parliamentary Committee as to how the scheme came to be formulated and implemented. Secondly, the whole thing should be scrapped. If it is a question of giving small people help who need it most and not maharajas and landlords, we would not bother. Many of them come to Calcutta. I know that the Dholakia family, for example, has got Rs. 13 lakhs or so.

They have got big palaces, when people from East Bengal, refugees, are starving in the streets.

One point more and I will finish. Verification. Verification on what basis? Verification on the basis of the document produced by the claimant. There is no scope of physical verification. Nobody can go to East Pakistan or, now, Bangladesh to verify these things. So, on that basis, some *ad hoc* things are done one-fourth of the verified value is given. It is known that when they submit the claims, the claims are sufficiently inflated and after verification, what remains to be spent would be substantial. That is what happens. From every point of view, this is nothing short of swindle by certain rich people and the Government is helping them. It is really morally repugnant. I come from Bangladesh. He knows very well how many people are wandering in the street, how many have to be settled and how many have not been rehabilitated in life at all. Is this the time that we should give money to the big ex-Maharaja's, ex-Rajas, big families, merchants and others? Therefore, please clarify the position. Again I say that the matter should be discussed. Mr. Chattopadhyaya should give us the information now.

THE VICE-CHAIRMAN (SHRI RAN-BIR SINGH) : Have you got to say anything? Not like the hon. Member, but take a minute because we have to finish one more Bill.

PROF. D. P. CHATTOPADHYAYA : I will take two minutes. That the seized property in Pakistan will be returned or restored to the Indian nationals who are the real owners—this sort of assumption appears to him rather unreasonable and the scheme based thereon equally untenable. This assumption is justified by the terms of the Tashkent Agreement. Among the terms of the Tashkent Agreement this was one that the properties of Pakistanis in India and of Indians in Pakistan would, on the cessation of hostilities, at an appropriate time through discussion, be restored. It is on this assumption that the scheme was based. So, I cannot say that it is an untenable assumption.

Secondly, the rationale of the scheme is this. The properties of Indians in Pakistan seized are worth Rs. 109 crores. It is almost four-fold the worth of Pakistani's properties left in India or seized in India.

He has raised the point about the figures. I would like to say that claims up to Rs. 1 lakh number 1284.

SHRI BHUPESH GUPTA : What about Rs. 1 lakh and more?

PROF. D. P. CHATTOPADHYAYA : Up to Rs. 1 lakh—1284; claims up to Rs. 5 lakhs—290; claims up to Rs. 10 lakhs—52 and claims above Rs. 10 lakhs—89.

SHRI BHUPESH GUPTA : How much have you paid?

PROF. D. P. CHATTOPADHYAYA : Through the Ministry they have been paid Rs. 12,42,57,000. The total cases disposed of come to 1715.

SHRI BHUPESH GUPTA : I wanted to know for how many you have paid a lakh and more and the aggregate amount they have received and for how many

[Shri Bhupesh Gupta]

you have paid ten lakhs and more and the aggregate amount received by them. This figure you can give.

PROF. D. P. CHATTOPADHYAYA : That is precisely what I was going to say because I do not forget, particularly when an hon. Member like him makes a point. Sir, the point he made and which at least impressed me *prima facie* is that the rich people got more than the poor people. Now, if claims are preferred and on verification, they are eligible, we have to pay as per the scheme and its terms introduced in 1971.

SHRI BHUPESH GUPTA : What is the factual position?

PROF. D. P. CHATTOPADHYAYA : I am giving the factual position. We have given wide publicity to it through mass media, particularly the vernacular press so that the more deserving people could come forward with their claims. So, Sir, I find that poor people have come forward in larger numbers but because of the low value of their assets...

SHRI BHUPESH GUPTA : What is the figure for Rs. 1 lakh and above?

PROF. D. P. CHATTOPADHYAYA : I am giving the break-down of the figures. For the highest category, that is, claims above Rs. 10 lakhs, the number disposed of is 89 and the money paid, Rs. 9,38,84,000. For claims up to Rs. 10 lakhs, the number disposed of is 52 and the money paid, Rs. 92,28,000. For claims up to Rs. 5 lakhs, the number of cases disposed of is 290 and the money paid, Rs. 1,58,98,000. And for claims up to Rs. 1 lakh, the number of cases disposed of is 1,284 and the money paid, Rs. 52,47,000.

SHRI BHUPESH GUPTA : There you are, Mr. Chatterjee.

PROF. D. P. CHATTOPADHYAYA : I am not Chatterjee, I am Chattopadhyaya. Sir, I am trying to meet his point. To my mind, the point that the hon. Member is making is valid, that rich people, other things being equal, did not deserve *per-hans* the total they have received...

SHRI BHUPESH GUPTA : Who got the highest amount ?

PROF. D. P. CHATTOPADHYAYA : I do not remember. Many of those people are personally known to him and come from the district from which he comes. (Interruptions) I did not get anything. I had no property and I got nothing.

SHRI BHUPESH GUPTA : This is unfair. I never suggested that. All I am asking is who got the highest.

(Interruptions)

PROF. D. P. CHATTOPADHYAYA : He had some property left there but he did not submit any claim, so far as I understand. Many of them are known to him, but I shall forget about the personal things. The point is, I agree with him and I have said in the last paragraph of the statement that I am having a second look at the whole matter.

SHRI BHUPESH GUPTA : On a point of privilege. Why is Prof. Chattopadhyaya...

THE VICE-CHAIRMAN (SHRI RAN-BIR SINGH) : Now, the next item. Dr. Seyid Muhammad.

SHRI BHUPESH GUPTA : ... not giving the name of the highest recipient ? What is the reason ?

THE VICE-CHAIRMAN (SHRI RAN-BIR SINGH) : Order, order.

SHRI BHUPESH GUPTA : It is a strange thing.

THE VICE-CHAIRMAN (SHRI RAN-BIR SINGH) : I have called Dr. Seyid Muhammad.

SHRI BHUPESH GUPTA : You may have called him. But this is a relevant question. Why can't he tell me ?

PROF. D. P. CHATTOPADHYAYA : I do not have the information. If you give me time and allow a discussion in the next session, I will be glad to give him the information.

(Interruptions)

THE VICE-CHAIRMAN (SHRI RANBIR SINGH) : Order, please.

SHRI BHUPESH GUPTA : If you had allowed the statement to be made yesterday, we could have had some discussion. So, on the matter I raised before the House, I stand thoroughly vindicated . . .

THE VICE CHAIRMAN (SHRI RANBIR SINGH) : I have called the Minister.

THE ADVOCATES (AMENDMENT) BILL, 1976

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V. A. SYEID MUHAMMAD) : Sir, I am completely under your control. But before I start moving my Bill, I want clearly to know whether there are any unscheduled debates and whether there are going to be debates while I am speaking so that I will have to sit down.

THE VICE-CHAIRMAN (SHRI RANBIR SINGH) : No, no, you can carry on uninterrupted.

DR. V. A. SYEID MUHAMMAD : Sir, I move :

"That the Bill further to amend the Advocates Act, 1961, as passed by the Lok Sabha, be taken into consideration."

Sir, this Bill proposes to bring out three main changes in the Advocates Act, 1961. One pertains to the abolition of what is called the dual system. The second is, instead of elected Chairmen of both the Central Bar Council as well as the State Bar Council, we are statutorily making the Attorney-General the Chairman of the Central Bar Council and the Advocate-General the Chairman of the State Bar Council. The third change is this. Under the Act at present, the State Bar Council has to contribute 40 per cent of the enrolment fees collected annually to the Central Bar Council. Now we are proposing to reduce the contribution by the State Bar Council from 40 per cent to 20 per cent. That means, the State Bar Council will get 80 per cent and will pay only 20 per cent to the Central Bar Council. These

are the three main proposals which the Bill proposes to bring about.

Regarding the abolition of what is called the dual system, there has been almost unanimous opinion in the country except, of course, the two solicitor groups, one of Bombay and the other of Calcutta, for the abolition of the system for various reasons. This House also, through the Joint Committee, has recommended that and definite reasons were given.

Basically, to start with this is a system which is absolutely alien and unnecessary in the circumstances prevailing in our country. In England it started simultaneously, or little bit earlier, with the Ecclesiastical courts which had proctors and the system developed into what may be called the Common Law Courts and later the Chancery Courts. This is not really a universal system. It is a system which is characteristic of the English Legal System. I do not include in it, when I say that, the legal system which is prevailing in America, in the Commonwealth countries and the civil law of the continental countries. I find that in America the system was never in force. Even all the Commonwealth countries which have transplanted the English legal system have not got the dual system, for instance, Canada and Australia. Even in England there is a recent trend to curtail the functioning of Solicitors. In the continent this plant was brought to Germany sometime ago, but uncongenial conditions of the soil as well as other conditions caused the plant to wither away and consequently in 1879 the system was altogether abolished. In India it was brought by the 1871 Charter. It was then introduced for two main reasons. Firstly, the Bar at that time was dominated by English Barristers and secondly at the second level there were Indian Barristers. But then in our country we have got now a unified Bar and there is no difference between Advocates, Barristers and Vakils. We have unified the Bar and there is no justification for the existence of the system any more in this country. Apart from the above reason, the more important factor is that it adds to the litigation expenses because you have