

MR. CHAIRMAN : I have already ruled that the Constitution requires every Proclamation to be laid on the Table of the House. What is its validity, when it will expire, these are matters which cannot be discussed at this stage. This is my ruling.

SHRI DWIJENDRALAL SEN GUPTA : Since the period has lapsed, you cannot do that. You are not a Court here. You have no inherent power to condone the period of limitation here.

श्री ना० कृ० शंजवलकर : मैं जो निवेदन करना चाहता हूँ वह रुलिंग के बारे में नहीं है। मैं यह निवेदन करना चाहता हूँ कि कम से कम यह स्वीकार कर लिया जाय कि शासन अपना कर्त्तव्य पालन करने से च्युत रहा है। सदन में यह बात रिकार्ड कर ली जाय।

MR. CHAIRMAN : I have given my ruling.

PAPERS LAID ON THE TABLE

PROCLAMATIONS ISSUED BY THE PRESIDENT IN RELATION TO THE STATE OF ORISSA AND RELATED PAPERS

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SRI RAM NIWAS MIRDHA) : Sir, I beg to lay on the Table a copy each of the following papers (in English and Hindi):—

I. (i) Proclamation (G.S.R. No. 67) issued by the President on January 11, 1971, under article 356 of the Constitution, in relation to the State of Orissa, under clause (3) of the said article.

(ii) Order dated January 11, 1971, made by the President under sub-clause (i) of clause (c) of the Proclamation.

[Placed in Library. See No. LT-6/71 for (i) and (ii)].

(iii) Report of the Governor of Orissa dated January 11, 1971, of the President recommending the

suspension of the State Legislative Assembly. [Placed in Library See No. LT-7/71].

II. Proclamation (G.S.R. No. 119) issued by the President on January, 23, 1971 revoking the Proclamation made by him on January, 11, 1971, under article 356 of the Constitution, in relation to the State of Orissa, under clause (3) of the said article. [Placed in Library. See No. LT-8/71].

III. (i) Proclamation (G.S.R. No. 120) issued by the President on January 23, 1971, under article 356 of the Constitution, in relation to the State of Orissa, under clause (3) of the said article.

(ii) Order dated January 23, 1971, made by the President under sub-clause (i) of clause (c) of the Proclamation.

[Placed in Library. See No. LT-8/71 for (i) and (ii)].

(iii) Report of the Governor of Orissa, dated January, 20, 1971, to the President recommending the dissolution of the State Legislative Assembly. [Placed in Library. See No. LT-9/71].

Sir, I also beg to lay on the Table a copy each of the following papers (in English and Hindi) :—

IV. (i) Proclamation (G.S.R. No. 398) issued by the President on March 23, 1971, under article 357 of the Constitution, in relation to the State of Orissa, under clause (3) of the said article. [Placed in Library. See No. LT-10/71].

(ii) Order dated March 23, 1971, made by the President under sub-clause (i) of clause (c) of the Proclamation. [Placed in Library. See No. LT-9/71].

(iii) Telephonic Message dated March 22, 1971 from the Governor of Orissa to the President recommending the issue of the Proclamation.

श्री सुन्दर सिंह बंबारी (राजस्थान) : श्रीमान्, ब्राइटम नम्बर में जो मंत्री महोदय ने सदन में रखा है उसका जो तीसरा भाग है उसमें राज्यपाल का लीफोन संदेश दिनांक 22 मार्च, 1971 भी सदन पटल पर रखा जा रहा है। मैं आप से यह जानकारी लेना चाहता हूँ कि इस का ऑटेंटिकेशन क्या है कि जो मैसेज सदन पटल पर रखा जा रहा है वह क्या है ? और क्या टेलीफोन आपरेटर्स और टेलीफोन रेकार्ड्स यहां रूम में प्ले किये जायेंगे ? आवश्यकता यहां पर किसी डॉक्यूमेंट को सदन में रखने की है। अगर गवर्नर की लिखित रिपोर्ट आयी होती तो उसे यहां रखा जा सकता था। गवर्नर की रिपोर्ट को भी हम अभी तक सदन में रखते आये हैं। लेकिन हम एक हिस्ट्री क्रियेट करेंगे अगर आप टेलीफोन मैसेज को यहां पर हाउस में प्ले करने की अनुमति देंगे। मेरा आप से यह निवेदन है कि जहां हम अन्य कागजों को ले करने की अनुमति देते हैं वहां कम से कम टेलीफोन मैसेज को प्ले करने की अनुमति नहीं प्रदान करनी चाहिए।

SHRI LOKANATH MISRA : Sir, would you allow me to place on the Table a telephonic message I have received?

MR. CHAIRMAN : The position is this. The telephonic message was received. It is the duty of the Government to inform this House at the earliest opportunity. It will probably be followed up, they will follow up the telephonic message, by some communication.

AN HON. MEMBER : When ?

श्री सुन्दर सिंह बंबारी : श्रीमान्, मेरा आप से निवेदन है कि टेलीफोनिक मैसेज की सरकार सूचना दे देती यह बात तो समझ में आ जाती है, लेकिन टेलीफोनिक मैसेज टेबिल आफ दि हाउस

पर रखा जाय या नहीं, अभी यह प्वाइंट एट डिस्प्यूट है। मेरा आप से यह निवेदन है कि इस को आप टेबिल पर रखने की इजाजत कदापि न दें।

SHRI BANKA BEHARY DAS : May I know whether it was the Governor's telephone or the Naxalites' telephone?

SHRI PITAMBER DAS : The matter is very simple. Only the papers can be laid on the Table of the House. I can understand that if the telephonic message had been further confirmed by a letter from the authority concerned, then that letter could be placed. But the telephonic message has only been heard. It is not a document. How can it possibly be laid here ?

SHRI BHUPESH GUPTA : A paper may carry the telephone message. Therefore, that is not right.

SHRI NIREN GHOSH (West Bengal) : Where is the paper that has carried the message ?

SHRI JAIRAMDAS DAULATRAM (Nominated) : Sir, my point is this. If the Constitution compels the laying on the Table any Proclamation issued, then it has to be laid on the Table. Whatever legal point or the so-called legal points, legitimate legal points have been raised therein, have to be included, including the point of telephone. Once the Proclamation has been issued, it must be laid on the Table. This is the right of Parliament. Members do not understand—moment a Proclamation issued, the House must be in possession of the Proclamation and whatever point arise with regard to the procedure, right or wrong, it could only be debated later on.

SHRI CHANDRA SHEKHAR (Uttar Pradesh) : Whatever may be the reasons, I think it is not proper to lay the telephonic message on the Table of this House. This is my considered opinion because no telephonic message can be laid on the Table

[Shri Chandra Shekhar]
of the House. This has been held by this House and by parliamentary institutions every time. I think what Mr. Pitamber Das said was a better way for the Government, namely, if a telephonic message was received it should have been recorded and that record should have been laid on the Table of the House. If there is any such circumstance where there is such a situation, I think the Government has enough resource Air Force planes are there—and these tremendous resources of the Government should be utilised. I think we shall not be poorer by using such methods. Sir, we will be creating bad precedents because if today this telephonic message is laid on the Table, tomorrow some one will like to place a telephonic message in the House and then you will have objection. So you should direct the Government not to repeat this habit in future.

MR. CHAIRMAN : I have followed it. Mr. Mirdha, do you want to say anything? I am reserving my ruling.

SHRIMATI PURABI MUKHOPADHYAY (West Bengal) : Before you called Mr. Ram Niwas Mirdha I stood up, I raised my hand, You should allow me to speak.

MR. CHAIRMAN : No. I have called Mr. Mirdha.

SHRIMATI PURABI MUKHOPADHYAY : But I raised my hand.

MR. CHAIRMAN : I have called Mr. Mirdha.

SHRI PITAMBER DAS : The message should have been confirmed by a letter.

SHRI RAM NIWAS MIRDHA : What I am laying on the Table of the House.

श्री राजनारायण : पाँच बार हम खड़े हुए और पाँच बार हमको बैठाया। आपने चन्द्र शेखर जी को नहीं बैठाया। हमसे ऐसा आप करेंगे तो आप सोचें कि हम ...

श्री सभापति : अब आप बैठिये।

श्री राजनारायण : काहे बैठें।

श्री सभापति : अच्छा, खड़े रहिये। मैं कहता हूँ कि बैठिये, नहीं तो फिर खड़े रहिये।

SHRI RAM NIWAS MIRDHA : What I have laid on the Table of the House is a message received on trunk telephone of the report that the Governor has sent in terms of article 356. Sir, the President can act under that article even without a report from the Governor, he can act on his own if he comes to know of the situation.... (Interruption) Please listen to me. You will have a chance to reply. So a report could be sent....

SHRI SUNDAR SINGH BHANDARI : We are not discussing the decencies of the procedure.

SHRI RAM NIWAS MIRDHA : It is not necessary for a report to come from the Governor because the President can act on his own under article 356.

Sir, as regards the report of the Governor, it can be sent by coded message, it can be sent on teleprinter, it can be sent by a letter or it can be sent on telephone. So in view of the circumstances....

SHRI NIREN GHOSH : No, no. Who says that ?

SHRI RAM NIWAS MIRDHA : ... of the case the report of the Governor of Orissa has been transmitted on the trunk telephone.

MR. CHAIRMAN : Are you prepared to place the letter, which may have been or may be followed, on the table of the House?

SHRI RAM NIWAS MIRDHA : Certainly, Sir.

श्री राजनारायण : श्रीमन्, जरा हमको आप सुनिये। एक आदमी खड़ा है, और तमाम हल्ला मचता है। मैं आप से एक बात जानना चाहता

हूँ, निवेदन के साथ, जरा ध्यान से सुनिये । यह आर्टिकल : 56 में है । जरा हिंदी वाली कापी लाई जाय, हिन्दी वाली कापी नहीं है तो अंग्रेजी में पढ़त हूँ :

"If the President on receipt of a report from the Governor of a State or otherwise, is satisfied that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of this Constitution...."

श्री सभापति : इस पर मैं रूलिंग दे चुका हूँ ।

श्री राजनारायण : जरा सुनिये । इसके चौथे के बारे में मैं बोल रहा हूँ । टेलीफोन मैसेज और रिपोर्ट दोनों का बराबर है ? क्या आपका यह मतलब है । माननीय मिर्धा साहब ने यह कहा कि टेलीफोन मैसेज और रिपोर्ट दोनों बराबर है ।

चेयरमैन साहब, जरा सुनिये । क्या आपकी व्यवस्था का अर्थ मैं यह समझूँ कि आप टेलीफोनिक मैसेज और गवर्नर की रपट दोनों को बराबर मानते हैं ?

MR. CHAIRMAN : I reserve my ruling on this.

श्री राजनारायण : जरा सुनिये । मैं आपसे एक निवेदन कर रहा हूँ । जरा सुन लीजिये । मैंने आप से एक निवेदन किया है, कृपया आप सुन लीजिये ।

MR. CHAIRMAN : All the papers will be treated as laid on the Table excepting the last one, the Report of the Governor.

श्री राजनारायण : श्रीमन्, मेरा प्वाइंट तो आप सुन लीजिये ।

MR. CHAIRMAN : I have disposed of that.

श्री राजनारायण : हल्ला करने से मैं बैठने वाला नहीं हूँ और जो राज और नज़ाकत है उसको सुनिये । मैं यह कहना चाहता हूँ...

MR. CHAIRMAN : I have disposed of that.

श्री राजनारायण : श्रीमन्, आपने जो रूलिंग दी है वह इसके संबंध में नहीं है । राष्ट्रपति जी को उड़ीसा के राज्यपाल का टेलीफोन सन्देश दिनांक 10 मार्च को मिला ।

श्री सुन्दर सिंह भंडारी : 10 मार्च को नहीं मिला बल्कि 22 मार्च को मिला ।

श्री राजनारायण : अगर 22 मार्च को मिला तो आज 23 मार्च है और आज तक सरकार यह कहने की हैसियत नहीं रखती है कि जो टेलीफोन मैं संदेश मिला है उसकी प्रति सरकार के पास है ? हमें इस बात की जानकारी है कि इसी टेलीफोनिक मैसेज पर राष्ट्रपति महोदय ने प्रोक्लेमेशन जारी कर दिया है । (Interruption) आप हमारी बात को सुनिये और मैं यह कहना चाहता हूँ कि यह सरकार अब फिक्टीशस रिपोर्ट मंगाने जा रही है । है । इसलिये मैं यह कहना चाहता हूँ कि राष्ट्रपति जी को जो टेलीफोनिक सन्देश आया और जिस पर उन्होंने प्रोक्लेमेशन जारी कर दिया है, क्या वह वैध है या अवैध है ? आप कल इस बात पर रूलिंग देंगे इसलिये मैं चाहता हूँ कि इस बात पर भी आप रूलिंग दें ।

MR. CHAIRMAN : Please sit down. I have disposed of that matter.

श्री राजनारायण : आपने डिस्पोज नहीं किया है ।

SHRI A. P. CHATTERJEE (West Bengal): How can you verify that the message received on telephone is the correct message ? Some message has been received on telephone and how can it be placed on the Table of the House?

MR. CHAIRMAN : I have for this reason reserved my ruling. Now, Secretary..