

**CALLING ATTENTION TO A  
MATTER OF URGENT PUBLIC  
IMPORTANCE**

**FIRING ON THE EMPLOYEES OF  
THE GUN AND SHELL FACTORY AT COSSIP-  
PORE BY THE DEFENCE SECURITY CORPS  
ON APRIL 8, 1969 AND THE SUBSEQUENT  
DEVELOPMENTS**

SHRI N. SRI RAMA REDDY (Mysore): Mr. Chairman, Sir, I would like to call the attention of the Minister of Defence to the firing on the employees of the Gun and Shell Factory at Cossipore by the Defence Security Corps on April 8, 1969, resulting in the death of some employees and the subsequent developments arising therefrom.

MR. CHAIRMAN: The Minister is not well. He may make the statement sitting.

THE MINISTER OF STATE (DEFENCE PRODUCTION) IN THE MINISTRY OF DEFENCE (SHRI L. N. MISHRA): Mr. Chairman, Sir, I report with regret the occurrence of an unfortunate incident at the Gun and Shell Factory, Cossipore, Calcutta on 8th April, 1969 culminating in firing by the Defence Security Corps personnel on duty in the factory.

The main facts are reported to be as under:

On 8th April, 1969, a gate meeting was held at about 0700 hours outside the Gun and Shell Factory, Cossipore during which agitational speeches were made. According to the usual practice, the factory gate is closed at 0730 hours after the muster and then reopened again after a short time to admit late-comers so that a proper record of late-comers can be kept. According to this practice, factory gate No. 3 was closed at 0730 hours after muster. A large number of workers outside the gate forced an entry into the factory premises and attacked the Defence Security Corps personnel and the durwans on gate duty, during which one DSC personnel on duty received a sharp cut head injury and a

musket belonging to another DSC guard on duty was also snatched away by the crowd inside the factory gate. One DSC guard had a fractured rib and another had an injury on his hand. The Manager (Administration) on gate duty was also assaulted. Faced with this situation, the Defence Security Corps personnel opened fire in self-defence. Nine rounds were fired as a result of which 9 persons received gun shot injuries of whom four persons have died. A fifth person has also died but not due to gun shot injuries. The dead persons are all workers of the factory. Prompt medical aid to the injured was rendered by the factory medical authorities.

Police authorities were immediately informed by the management and a Magistrate was also requested to come.

The Chief Security Officer of the Directorate General of Ordnance Factories had commenced an enquiry but suspended it on the announcement of the appointment of the Commission of Inquiry. An Army Court of Inquiry is also being held. The factory was closed with effect from 2.30 P.M. on 8th April, 1969. It reopened on 11th April, 1969.

On the 9th April, 1969, during the discussion in Lok Sabha on a Call Attention Motion, in deference to the wishes of some hon. Members of that House, the Minister of Defence announced his intention to appoint a high-powered Commission presided over by a serving/retired High Court Judge or Supreme Court Judge to inquire into the matter. A single member Commission of Inquiry has since been appointed on the 11th April, 1969, consisting of Shri S. K. Das, Retired Judge, Supreme Court of India, and the West Bengal Government have been requested to give their co-operation and help to the Commission of Inquiry in the discharge of its duties.

The West Bengal Government had requested the Government of India

that the Defence Security Corps personnel and their weapons should be handed over to the police authorities at Calcutta. The West Bengal Government were informed by TPM on 16th April, 1969, and followed by a letter on 17th April, 1969, that the Defence Security Corps personnel are governed by the Army Act and are by virtue of Notification No. 6-E dated 28th November, 1962, deemed to be on active service within the aning of the Army Act and consequently" Sections 125, 126 and 127 of the Army Act are applicable to their case. The appropriate authority competent to require delivery of Defence Security Corps personnel is a Criminal Court having jurisdiction under Section 126 of the Army Act and this Court has to move the Officer Commanding, referred to in Section 125 of the Army Act. The Army Officer concerned may either hand over the personnel or make a reference to the Central Government whose decision on such a reference would be final. The West Bengal Government have been informed that the Central Government will deal on merits with any reference which may be received from the concerned Army Officer under Section 126 of the Army Act.

The Magistrate, Sealdah Police Court, had forwarded a warrant of arrest to the Commander, Calcutta Sub Area, to arrest and produce before the Magistrate by 23rd April, 1969, the three Defence Security Corps personnel concerned in the firing for offences alleged to have been committed under Section 302/307 Indian Penal Code. The local Army authorities had moved the Calcutta High Court against the order of the Magistrate and the High Court has been pleased to .. grant a stay order pending the hearing of the matter.

Of the four civilian officers arrested, one officer, Shri J. N. Ghosh, Assistant Manager, was ordered to be released on bail by the Police Magistrate on 9-4-1969, but was actually got released on 15-4-1969. Bail applications were then presented in the Sessions Court on behalf of the others

on 15-4-1969. Two of the others Shri B. IS. Gupta, Assistant Manager, and Shri Mithilleswar Singh, Durwan, were ordered by the Sessions Court to be released on bail on 15-4-1969. Bail application in respect of Shri D. P. Chakraborty, Manager (Administration), was thereafter filed in the Calcutta High Court and heard on 17th April, 1969 and he was ordered to be released on 18-4-1969.

Ex gratia payment of Rs. 5,000 to ily of each of the workers who died sn the incident, and Rs. 500 to the injured persons has been sanctioned.

SHRI N. SRI RAMA REDDY: It is a matter of great distress that some lives were lost and some people were injured as a result of unruly action of workers who prevented others and threatened to break into the Ordnance Factory at Cossipore on the 8th April, and I am sure that everyone of us regrets it and expresses our deep sorrow for the loss of lives. But Sir, then, it is made clear by the statement of the Minister that a musket was snatched from the Defence Security Forces, that not only some of the Forces were injured, but a musket was snatched away by the unruly mob in the struggle. Sir, it is good to remember that Cossipore Factory is manufacturing guns and shells.

MR. CHAIRMAN: You would allow me to mention one thing. In this Calling Attention Notice you have to put questions for clarification and not make speeches. Otherwise, it becomes impossible for me to allow many Members to put questions. Therefore, this should be remembered.

SHRI N. SRI RAMA REDDY: Let him speak here because Mr. Atulya Ghosh cannot speak there. Let him speak a little.

MR. CHAIRMAN: Put the question.

SHRI N. SRI RAMA REDDY: I am putting the question. Sir. A large

number of guns and shells are stored inside, and when there is an attempt by an unruly mob to break the gate and enter the factory and when a musket has been snatched away from the hands of one of the Defence Forces, certainly it is a very serious situation arising out of the action of some of the employees.

Also there is another point. We have to bear in mind, Sir, that within these six weeks of the entry of the U.F. Government in West Bengal two major incidents of this kind which are most dangerous, which are very anti-national, have happened in West Bengal, one at Durgapur and another at Cossipore. The United Front Government having been responsible for instigating the people to commit such a thing, I would like to know whether it is not a fact that the United Front Government has been opposing confrontation with the Central Government instead of co-operation.

SHRI L. N. MISHRA: I do not take it as a confrontation.

SHRI N. SRI RAMA REDDY:  
My second question, Sir...

> MR.

CHAIRMAN: There is no second question in Calling Attention.

SHRI N. SRI RAMA REDDY:  
There is a second question. The very fact that even though the personnel in the factory were covered by the Army Act they, in defiance of the Act of the Central Government, were arrested as is shown by the fact that some of them were asked to be released. Does it not show that the U.F. Government is purposely trying to defy the orders of the Central Government and they want to bring about a political crisis in the Centre-State relationship? I should like to know whether this fact is not indicated in the acts of the U.F. Government.

SHRI L. N. MISHRA: There is no defiance of order on the part of the United Front Government.

SHRI SANDA NARAYANAPPA:

(Andhra Pradesh): May I know from the hon. Minister whether it is appropriate for the State Government to start with judicial proceedings when the Government had already ordered a Commission of Enquiry against the firing incident that took place in the Gun and Shell Factory, Cossipore? Secondly, may I know whether it infringes the rights of the provisions of the Army Act which governs the factory installation which is under the control of the Defence Ministry? Thirdly, Sir, what is the relationship between the labour working in the factory which is under the Defence Ministry and the labour laws enacted by the State Government? On these three points will the hon. Minister enlighten us?

SHRI L. N. MISHRA: The Army Act has been put into operation and that is why the security personnel had not been handed over to the State Government.

SHRI M. N. KAUL (Nominated): Sir, this is one of the most tragic incidents that have happened in recent times...

MR. CHAIRMAN: That is agreed.

SHRI M. N. KAUL: It may be that the workers were at fault to begin with. The general feeling is that the force used was excessive. The charge has got to be established and established quickly. What has happened is that politics has entered into this matter. I should like to know from the hon. Minister how it is possible to reconcile a judicial enquiry and a concurrent enquiry held by the Army authorities under their statutory powers. We should like to know precisely what is the scope of these two enquiries, whether these two enquiries overlap or not. Is there possibility of conflict of judgment in these two enquiries? All these matters have got to be clarified because there is a general feeling that the Government of India rushed into ordering a judicial enquiry under the pressure of debate in the other House. It

[Shri M. N. Kaul]

would have been better not to have appointed a judicial enquiry. The Army authorities should have proceeded with the court of enquiry and we should have awaited their findings. Now the Government should take steps to have the case in the High Court expedited so that the matter gets out of this legal involvement. There should be clear thinking as to how this matter should proceed and for that purpose both the Central Government and the State Government should co-operate so that public opinion is satisfied at the earliest possible moment.

SHRI L. N. MISHRA: The Army Court Enquiry is mainly for the Defence Security Corps while the judicial enquiry is for the whole incident. I do not think there is any clash between the two.

SHRI M. N. KAUL: The facts are the same.

SHRI BHUPESH GUPTA (West Bengal): Mr. Chairman, Sir, first of all, in the statement the facts have not been clearly revealed to the House. It was a cold-blooded murder inside the premises of the factory, almost point-blank murder of people. Now, it was not a question of something being done under provocation. May I know whether the Minister is aware that some of the officers were actually reported to be planning to take this kind of extreme action against the leading workers who would go there on that day? Therefore, the murder was preplanned. Is he aware of that? Secondly, is he also aware that on that day the schools were closed?

SHRI LOKANATH MISRA: (Orissa): If the murder was preplanned why did the U.F. Government not take action?

SHRI BHUPESH GUPTA: Oh, I see. Whether it was preplanned we did not know. No wonder, Mr. Chairman, my friend...

SHRI B. K. P. SINHA (Bihar): I would bring one matter to your kind

notice. Those officers are being prosecuted by the Government of West Bengal. The matter is sub judice. Under the circumstances, is it proper for any hon. Member to allege that a cold-blooded murder was committed, that it was all pre-planned?

SHRI BHUPESH GUPTA: My friend is an eminent lawyer, not at the Bar but here. That is the trouble with him. I am not referring to any case. I am referring to an incident, and what is proceeding in the court of law...

SHRI DAHYABHAI V. PATEL (Gujarat): It is a matter of enquiry.

MR. CHAIRMAN: Because there is a judicial enquiry going on I wonder whether we should go into this matter. We must be most careful.

SHRI BHUPESH GUPTA: It is disputed that they have been killed? That is what I am referring to...

SHRI C. D. PANDE (Uttar Pradesh) : Anyhow, whether it was coldblooded or pre-planned you were responsible for that.

MR. CHAIRMAN: Kindly put your question.

SHRI BHUPESH GUPTA: It is no use expressing sympathy for the murdered workers or for their bereaved families when I know that some of you are literally happy that such things have happened.

SHRI N. SRI RAMA REDDY: No. no. We have expressed regret.

SHRI BHUPESH GUPTA: I say Mr. Rama Reddy spoke in Mr. Nija-lingappa's language here.

SHRI N. SRI RAMA REDDY: No.

SHRI BHUPESH GUPTA: Yes. Therefore, Mr. Chairman, let me proceed. I am a controversial figure but no more than what Mr. Morarji Desai is. I am a controversial figure.

MR. CHAIRMAN: I do not agree that you are a controversial figure. The only thing is, put your question properly.

SHRI BHUPESH GUPTA: I am very glad to hear that in your kind opinion I am not a controversial figure. I should like to know why an enquiry was ordered by the Central Government without any prior consultation with the West Bengal Government and even without referring the matter as a matter of formality to them.

SHRI B. K. P. SINHA: The Communist Members demanded that.

SHRI BHUPESH GUPTA: Do not bother as to who demanded. I am asking the Government. You cannot blow hot and cold all the time. I am asking them as to what came in the way of telephoning the Chief Minister of West Bengal and asking him as to what would be his reaction to the proposal under consideration of the Government that there should be an enquiry. Now that they are asking for co-operation of the West Bengal Government they should be told that this is not the way to seek co-operation. And my fear is that the West Bengal Government will not extend its co-operation to that farcical imposed enquiry. Now, in regard to warrants of arrest, we are told that warrants of arrest were issued but the Government moved in this matter in order to prevent it. Now in a case like this where actual combatant military personnel are not involved— they are actually civilians, allegedly covered somehow or the other by the Army Act; actually they are men working in civil capacity; they are not combatant soldiers either at the front or in barracks—I should like to know whether Government is considering the advisability of modifying the rules so that people charged with murder.

SHRI C. D. PANDE: No.

SHRI BHUPESH GUPTA: No? What are you talking? Has Mr. C. D. Pande become the Prime Minister of

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the country? (Interruption) I am asking a question. I should like to know whether the Government is considering the advisability of modifying the rules so that such cases are not sought to be protected under the Army Act and the guilty people charged with commission of such murders and other things are handed over to the civil authorities to face a court of trial. Then, Sir, how is it that the Central Government moved in this matter in order to get bails? On behalf of Mr. Chakravarty and other officers a bail petition had been filed. Now the Central Government is going to move the court in order to get them enlarged on bail. Whereas in an ordinary criminal prosecution, the Government objects to bail being granted to people accused of or charged with murder under section 302 of the Indian Penal Code, here we find that the Central Government authorities are trying to get them enlarged on bail, agitating courts of law, in order that this judicial process cannot take place properly. Is the Government aware that if they are enlarged on bail there will be frustration of justice? And why doesn't the Government itself come out with the suggestion before the court of law that bail should not be granted in a case like this when people are charged with cold-blooded murder, in the interest of investigation and so on? I think these are the positions which the Government should clarify. Sir, if anybody has introduced politics into this matter, it is the Central Government. I say, Sir, we are not going to be cowed by them in West Bengal. We will make that very clear...

MR. CHAIRMAN: Why do you say that? Put only questions.

SHRI BHUPESH GUPTA: I should like to know whether it is not obvious under the law that in a matter like this, the State Government is authorised to hold an enquiry? Why didn't the Central Government itself suggest to the Chief Minister of West Bengal that the State Government should order an enquiry, instead of rushing to hold an enquiry by itself

[Shri Bhupesh Gupta] behind the back of the State Government? Finally, Sir, you will see that two procedures are there. In one case the Army Act is invoked in order to shield those people who are sought under warrants by court. In another case, an enquiry is ordered not under the Army Act but under the Commission of Inquiry Act, which is a civil Act if I may say so. Therefore, they are using both methods: when it suits them, the Army Act, and when it does not suit them, any Act other than the Army Act. Therefore, they are operating with a view to frustrating the proper investigation and punishment of the criminals and murderers in the Cossipore Gun and Shell Factory. I charge, this Government is a protector of murderers; this Government is shielding criminals...

MR. CHAIRMAN: You are making a speech. It is not just.

SHRI BHUPESH GUPTA: This is my charge and let it be answered. The behaviour of this Government is one that goes to protect criminals and murders. The Government is guilty of...

MR. CHAIRMAN: I would like to make it quite clear that so far as Calling Attention motions are concerned, one cannot make a speech. If really people begin to make speeches...

SHRI BHUPESH GUPTA: No, no.

MR. CHAIRMAN: You are making a speech.

SHRI BHUPESH GUPTA: I have to ask questions.

MR. CHAIRMAN: But do not cast reflections. You can certainly ask questions. But you should not make speeches or cast reflections.

SHRI BHUPESH GUPTA: Re-flection? I am making a charge. I am not a retailer. I am a wholesaler. I charge the Government with protecting murderers in Cossipore. This is a clearcut, categorical charge.

MR. CHAIRMAN: Please sit down.

SHRI L. N. MISHRA: Sir, so far as the commission of enquiry is concerned, under the Commission of Inquiry Act, 1952, both the Union Government and the State Government are entitled to appoint such commissions of enquiry. We appointed this commission of enquiry only in response to the request made by a number of Communist Members in the Lok Sabha and we expect cooperation from the West Bengal Government.

SHRI BHUPESH GUPTA: I see. Withdraw that enquiry.

MR. CHAIRMAN: That is all right, he is only stating a fact.

SHRI L. N. MISHRA: We expect full cooperation from the West Ben-g:>l Government to this commission. If they are not interested we are not going to force this enquiry on them.

MR. CHAIRMAN: Mr. Arora.

SHRI BHUPESH GUPTA: A camouflage to frustrate the process of law.

SHRI ARJUN ARORA (Uttar Pradesh): Sir, there are two sets of persons involved in this case. Some are civilians and the others are army personnel covered under the Army Act.

PANDIT S. S. N. TANKHA (Uttar Pradesh): Both are covered.

SHRI ARJUN ARORA: Both are not covered under the Army Act. The civilian personnel are not covered under the Army Act. Only the Ministry of Defence Security Force people are covered under the Army Act. And this Calling Attention Motion, it is worded and signed among others by Mr. Bhupesh Gupta, does not relate to the whole question. It relates only to the Ministry of De- ce Security Force personnel who covered under the Army Act. May

I know if in the matter of those covered under the Army Act, the Army people, who alone have the authority will be the final arbiters as to whether the men will have to be handed over to the West Bengal Government or the matter will be decided politically? My personal view is that in the matter of the Security Force men covered under the Army Act not from today but for the last seven years, the decision of the Army should be final. May I know if the Government is in a position to declare today that it will back the decision of the Army and not be pressurised politically? This is necessary not only in the interest of (the persons involved in this case but also in the interest of the whole army personnel upon whom we depend for the security of our country.

SHRI BHUPESH GUPTA: Let loose these people to kill people, to kill workers point-blank?

SHRI L. N. MISHRA: So far as the Defence Security Force is concerned, they would be tried by the Army court according to the Army Act.

SHRI A. D. MANI (Madhya Pradesh): Sir, the Calling Attention Motion does not refer only to the Defence Security Force, but also refers to "subsequent developments arising therefrom".

SHRI BHUPESH GUPTA: Mr. Arora is upset.

SHRI ARJUN ARORA: You are confused, Mr. Bhupesh Gupta.

[THE DEPUTY CHAIRMAN in the Chair.]

SHRI A. D. MANI: Since the hon. Prime Minister is in the House may I ask her whether it is not a fact that one of the subsequent developments was the Bengal bandh organised by the West Bengal Government? May I ask her: How did the Central Government allow the suspension of the communication services, the Reserve Bank of India and the train services during the Bengal bandh orga-

nised by the West Bengal Government? Does it not amount to defiance of the Constitution under which it is the duty of the West Bengal Government to allow the Central Government services to function? What protests have been made with the West Bengal Government on the subject? This arises from the "subsequent developments." I would like the hon. Prime Minister to say a few words on this subject.

SHRI ABID ALI (Maharashtra): No protests; action.

SHRI L. N. MISHRA: Madam, the Home Minister made a statement when a discussion on this subject was going on. He made a statement on the Bengal bandh. I would like the hon. Member to refer to that.

SHRI A. K. KULKARNI (Maharashtra): Madam, I want to know one point from the Government as a matter of clarification. The incident at Cossipore is really a tragic incident. In this connection at least the United Front Government in West Bengal should have taken a view that it is a matter concerning the army and an army factory where at least discipline must be maintained at any cost. I have all the sympathies for the persons who died in the firing. And every Member of this House will have sympathies for them. But in order to maintain discipline in a military factory, friends like Mr. Bhupesh Gupta must cooperate with us here and the United Front Government and also the Central Government because these are matters of a very delicate nature. May I know from the Government whether the Government will impress on the U.F. Government not to take a political view of the situation and advise them that a constructive view must be taken for maintaining discipline in the factories run by the Central Government, particularly by the Defence Wing?

SHRI BHUPESH GUPTA: You kill people there.

SHRI L. N. MISHRA: I can only say, Madam, that I hope the West Bengal Government will pay heed to the "appeal made by the honourable Member.

SHRI CHITTA BASU: (West Bengal): Madam, it appears from the reply of the honourable Minister that the Inquiry Commission has been set up in the case of Cossipore firing without prior consultation with the West Bengal Government. May I know in this context from the honourable Minister whether the Government of India consulted the Attorney-General of the country before taking the decision of instituting an inquiry under the Commissions of Inquiry Act? Again, Madam, may I know from the honourable Minister, in view of the fact that a controversy has been raised regarding the jurisdiction of the Government of India and of the State Government in the matter of the Cossipore incident, whether he will consider it advisable to consult the Chief Justice of India in the matter of determining the jurisdiction of the Government of India and of the Government of West Bengal in this — respect? {Interruption}. Finally, may I also know from the honourable Minister whether the Government of India will withdraw its policy of confrontation with the Government of West Bengal in this particular case because that attitude cannot improve the Centre-State relationship today?

SHRI L. N. MISHRA: Madam, We are not interested in any confrontation. But it is our job to protect our defence installations wherever they are. We are interested in protecting our defence installations. So far as legal opinion is concerned, the Government of India have taken the decision. We are convinced that the Government of India have got jurisdiction in such matters for setting up a Commission of Inquiry.

DR. BHAI MAHAVIR (Delhi): Madam, according to the statement of the Minister the whole thing started when some workers, who had allegedly arrived late for their duty,

mises of the factory. And one of them has been stated to have tried to snatch a musket from one of the security guards. Now, only one side of the picture has been brought as to what has been done with regard to the army personnel who fired because of this incident or in consequence of this incident. I would like to know from the Minister if he has any information as to who the particular person or persons were who tried to snatch the musket from the security guard, if the particular person has been arrested and if there are any proceedings against those people who created that incident from outside. This is number one. Number two. I would like to know if it is not the West Bengal Government, which seems to be so much touched, so much upset because of the incident, which is responsible for all this. In fact every law-abiding citizen, every peaceful citizen is upset by the things which developed into the death of some workers. But I would like to know if the Central Government is not aware of the fact that this is one incident in a series of incidents—there have been other incidents also—and if the Minister can say that he is sure that it was not at the incitement of the people in power there who were interested in creating tilings to cover up some of their misdeeds and some of their lapses in other respects, take, for example, like the incident which took place at Ra-bindra Sarovar in Calcutta. {Interruption}. Does the Central Government feel that the event is a singular, isolated incident and the Commission of Inquiry will cover it and it will have satisfactory findings from it? But this is a sequence of things and there is reason to believe that the incitement has come from the Government itself there. What action is the Central Government taking not to allow this type of camouflage being put up in order to cover the lapses and misdeeds of the United Front Government in West Bengal at the moment?

SHRI L. N. MISHRA: Madam, there are two courts of inquiry, one



is the Army Court of Inquiry and the Other the Commission of Inquiry. I do not like to go into the facts as the Commission of Inquiry will come out with the facts. So far as protection is concerned, Madam, we are determined to protect our defence installations wherever they are. We have taken the necessary measures for the protection of our defence installations.

SARDAR D. K. JADHAV (Ma-dhya Pradesh): The attitude of the Government of West Bengal is absolutely rebellious, undemocratic and unpatriotic. May I ask the Minister, after the pronouncement of a judicial inquiry, how far it was justifiable for Mr. Jyoti Basu to say that judicial probe is an act of undeclared war on the West Bengal Government? Secondly, the Chief Minister of the United Front Government has recently proclaimed that the maintenance of law and order in West Bengal is a matter for the people and not for the police. How far is this Government justified in making such pronouncements and what action has the Government of India taken in this regard?

SHRI L. N. MISHRA: Madam, I would not like to comment on the statement of any Chief Minister.

THE DEPUTY CHAIRMAN: I think we have had enough of it.

SHRI DAHYABHAI V. PATEL: While it is understandable that so much attention...

THE DEPUTY CHAIRMAN: Are you asking a clarification?

SHRI DAHYABHAI V. PATEL: It arises out of this, about incidents in Calcutta.

THE DEPUTY CHAIRMAN: No, no.

SHRI DAHYABHAI V. PATEL: I took the permission of the Chairman in the morning.

THE DEPUTY CHAIRMAN: I was there with the Chairman in the morning. Now, Mr. Rajnarain, do

you want to put a question for clarification on this Calling Attention issue?

श्री राजनारायण (उत्तर प्रदेश):  
माननीया, मैं मंत्री जी से ज़रा स्पष्ट रूप से जानना चाहूंगा क्योंकि आर्मी ऐक्ट, 1950 हमारे हाथ में है और इसकी दफा 125, 126 और 127 (ए) और (बी) को अगर ध्यान से पढ़ा जाये :

“When a Criminal Court and a Court Martial had each jurisdiction in respect of an offence, it shall be in the discretion of the officer commanding the army, army corps, division or independent brigade, in which the accused person is serving, or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and if that officer decides that they shall be instituted before a Court Martial, to direct that the accused person shall be detained in military custody.”

तो यहाँ पर यह बिल्कुल साफ है कि अगर दो का जुरिस्टिक्शन हो, फौजदारी अदालत का और सेना की अदालत का, तो सेना का आफिसर यह डिमांड—निर्णय—करेगा कि वह कहाँ जाना चाहिये और उसके मुताबिक वह आदेश करेगा। मगर 126 (ए) यह कहता है :

“When a Criminal Court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in Section 125, at his option either to deliver over the offender to the nearest Magistrate to be proceeded against according to law or to postpone the proceedings pending a reference to the Central Government.”

अब मैं यह जानना चाहता हूँ कि मैजिस्ट्रेट की अदालत ने किसी फौजी आफिसर

(श्री राजनारायण)

के पास इसके बारे में क्या लिखा कि हमारा जुरिस्टिडक्शन है और हम चाहते हैं कि आप इसको हमको सुपुर्द करें, हम इसको करेगे, और क्या उसके लिखने के पूर्व फौजी आफिसर ने उन अफेंडरों—अपराधियों—के सम्बन्ध में कोई फैसला लिया कि वे कोर्ट मार्शल की अदालत में जायेंगे या नहीं। यह बात माननीय मंत्री जी के जवाब में कतई साफ नहीं हुई।

दूसरी बात यह है कि सेंट्रल गवर्नमेंट कहां है। मैं सेंट्रल गवर्नमेंट को दोषी पाता हूँ। जो मेरी अपनी विश्वस्त सूत्र की जानकारी है उसके अनुसार सेंट्रल गवर्नमेंट के हाथ पांव फूल गये हैं . . .

THE DEPUTY CHAIRMAN: You must be brief now. Please be brief.

श्री राजनारायण:

"In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Central Government whose order upon such reference shall be final."

मैं जानना चाहता हूँ कि क्या सेंट्रल गवर्नमेंट को वहां के किसी मिलिटरी आफिसर ने रिफर किया कि हम फौजी अदालत चाहते हैं, इसको हम खुद करना चाहते हैं, इनको हमें दे दें, तो सेंट्रल गवर्नमेंट का इस पर क्या आदेश है? इसके बारे में सफाई हो जाय। तब तीसरा प्रश्न उठता है कि क्या यह बात भी सत्य है कि यह सरकार पहले कोई इन्क्वायरी कमीशन—जांच आयोग—नहीं बैठाना चाहती थी तो इन्क्वायरी कमीशन बैठाने की आवश्यकता इस सरकार को महसूस क्यों हुई? माननीय मंत्री जी का यह कहना है कि . . .

THE DEPUTY CHAIRMAN:  
That is not a question, Mr. Rajnarain.

श्री राजनारायण: मैं बवेश्चन पूछ रहा हूँ। क्या माननीय मंत्री जी का यह कहना उचित है कि कम्युनिस्ट मेम्बरों ने सरकार को बारबार कहा कि एक जूडीशियल इन्क्वायरी सरकार बैठा दे, इसलिए कम्युनिस्ट मेम्बरों को खुश करने के लिए सरकार ने ऐसा कर दिया? यह सरकार की अयोग्यता, अक्षमता और बुद्धि के दिवालियापन का सबूत है। माननीया, हमारा कहना है कि सेना के अफसरों ने इस सरकार को मजबूर किया और कहा कि चाहे जो हो जाय हम लोग ह्यूमिलियेशन सहना बर्दाश्त नहीं करेंगे और किसी भी हालत में हम इन लोगों को सिविल कोर्ट के सामने नहीं जाने देंगे, सेना के कमान्डर ने जब यह एटीट्यूड लिया तब सेंट्रल गवर्नमेंट झुकी और उसने वहां पर एक जूडीशियल इन्क्वायरी की बात की, नहीं तो जूडीशियल इन्क्वायरी करने का कोई प्रश्न ही नहीं था।

श्री ललित नारायण मिश्र: किसी के दबाव में जूडीशियल इन्क्वायरी नहीं हुई है।

श्री राजनारायण: हुई है।

श्री ललित नारायण मिश्र: जूडीशियल इन्क्वायरी इसलिए हुई . . .

श्री राजनारायण: क्यों?

श्री ललित नारायण मिश्र: आराम से सुनिए। हमने इतना ही कहा कि सदन के कम्युनिस्ट सदस्यों ने मांग की . . .

प्रधान मंत्री, परमाणु शक्ति मंत्री और योजना मंत्री (श्रीमती इन्दिरा गांधी): सब सदस्यों ने।

श्री ललित नारायण मिश्र: आमीं के किसी अफसर या किसी ने यह बात

नहीं कही। मैं यह कहना चाहता हूँ कि डिफेंस सीक्योरिटी कोर के जो लोग हैं उनकी रक्षा करना खासकर डिफेंस मिनिस्ट्री का काम है। हम उन लोगों को आर्मी से लेते हैं कारखानों की रक्षा करने के लिए। अभी जब माननीय सदस्य ने 127 धारा पढ़ी तो उन्हें दूसरी धारा को भी देखना चाहिए था। सेन्ट्रल गवर्नमेंट फाइनल अथॉरिटी होगी यह फैसला करने के लिए कि उसको सिविल कोर्ट में दिया जाय या न दिया जाय। अभी तक यह बात मेरे पास नहीं आई है। जब आणीतब उसको देखकर फैसला करेंगे कि आर्मी कोर्ट में जाय या सिविल कोर्ट में जाय और वह अन्तिम फैसला होगा।

**SHRI SUNDAR SINGH BHANDARI (Rajasthan):** There seems to be confusion. Madam.

मुझे इस मामले में एक स्पष्टीकरण पूछना है। मिनिस्टर ने जो जवाब दिया है उसके सम्बन्ध में मुझे स्पष्टीकरण लेना है।

**THE DEPUTY CHAIRMAN:** No, please.

**श्री सुन्दर सिंह भंडारी:** इस तरह की सफाई लेने के लिए आप बराबर एलाउ करती हैं, तो इसमें क्या मुश्किल है?

Should I take it that you are not allowing me, Madam?

**THE DEPUTY CHAIRMAN:** No, I am not allowing. That is all, Mr. Rajnarain will now speak about some other matter.

#### REFERENCE TO RABINDRA SAROBAR STADIUM INCIDENTS

**श्री राजनारायण (उत्तर प्रदेश):** मैं बहुत ही भारी हृदय, गुस्सा और

क्षोभ के साथ आज रवीन्द्र सरोवर कांड की जांच के लिए जो करीब 200 संसद के सदस्यों ने एक स्मृतिपत्र दिया और जिसके बारे में माननीया प्रधान मंत्री महोदया ने भी समाचार-पत्रों में एक बयान दिया उसकी ओर सदन का ध्यान आकर्षित करना चाहता हूँ। माननीया, इस सम्बन्ध में मैं कलकत्ता चार दिन रह चुका हूँ, इस सम्बन्ध में मैं बम्बई भी गया, अशोक कुमार जो ऐक्टर हैं उनसे भी बात की, करीब दो घंटे तक उनका बयान लिया। किस बड़े पैमाने पर वहाँ महिलाओं के साथ छेड़-खानी की गई, वे वस्त्र-विहीन की गई, उनके गहने लूटे गये और उनको जबरदस्ती उठा-उठा कर भगाया गया है कि आदिम अवस्था के समय भी ऐसा जंगली, बर्बर व्यवहार नहीं हुआ होगा।

**SHRI B. K. P. SINHA (Bihar):** Madam, I rise on a point of order. Hard cases should not make bad laws. What has happened there is shocking... (Interruptions).

**SHRI BHUPESH GUPTA:** It is all grossly exaggerated. {Interruptions.}

**SHRI B. K. P. SINHA:** Madam, these incidents are very shocking but hard cases should not make bad laws. This is a matter which falls exclusively within the purview of the West Bengal Government and I do not know how it can be raised here.

**THE DEPUTY CHAIRMAN:** Mr. Sinha, it has been discussed with the Chairman by Mr. Rajnarain and the Chairman has given his direction that he can mention this incident here in a few minutes only. This is the Chairman's discretion and direction. So Mr. Rajnarain can say what he wants to say in just five minutes, not more.

**SHRI R. S. DOOGAR (West Ben-gal):** This is a matter of great importance, (Interruption\*.)