

hands of the Executive, how could it then be said that the Judiciary has been in fact, really separated from the Executive, because it is subject to their control and direction in a very important way?

SHRI DINESH SINGH: So far as the separation is concerned, it is separation so far as functioning is concerned. Transfer is an administrative matter.

श्री विमलकुमार मन्नालालजी चौरडिया :
क्या श्रीमान् बतलावेंगे कि जिस लक्ष्य से हमारे शासन ने यह निर्णय किया है कि एकजीक्यूटिव जुडीशियरी से अलग हो, उस को दृष्टि में रख कर पंजाब में जुडीशियरी और एकजीक्यूटिव के अलग होने की कब तक सम्भावना है ?

श्री दिनेश सिंह : जैसा मैंने अभी जिक्र किया कि १० डिस्ट्रिक्ट्स में हो गया है और बाकी में यह कंसिडर किया जा रहा है ।

SHRI A. D. MANI: May I ask the Prime Minister whether, when the deputation met him, they stated their case purely on academic grounds or did they give instances of failure of justice on account of non-separation of the Judiciary from the Executive in Punjab?

SHRI JAWAHARLAL NEHRU: I am afraid. I have no recollection of what they said to me at the time. I have met numerous delegations from time to time.

SHRI M. S. GURUPADA SWAMY: In view of the fact that the Chief Minister of Punjab has taken a stand against the separation of the Judiciary from the Executive recently, may I know whether the Government has asked for clarification as to whether

that is the position of the Punjab Government or whether there is anytime schedule drawn up for bringing about the separation of the Judiciary from the Executive?

SHRI DINESH SINGH: He has not taken a stand against this. As I mentioned just now, he has never said so and they are considering the matter.

पंजाब के मुख्य मन्त्री के विरुद्ध जांच

{ श्री ए० बी० वाजपेयी :
*३६. { श्री डाह्याभाई व० पटेल :
 { श्री अब्दुल घनी :

क्या प्रधान मंत्री १९ सितम्बर, १९६३ को राज्य सभा में तारांकित प्रश्न संख्या ६७२ के दिये गये उत्तर को देखेंगे और यह बताने की कृपा करेंगे कि :

(क) क्या पंजाब के मुख्य मंत्री के विरुद्ध गैर-कम्युनिस्ट विरोधी दलों द्वारा लगाये गये आरोपों की जांच पूरी हो गई है ; और

(ख) यदि पूरी हो गई है, तो उस का क्या परिणाम निकला है ?

+ [ENQUIRY AGAINST THE PUNJAB CHIEF MINISTER

"SHRI A. B. VAJPAYEE: ³⁶ J SHRI DAHYABHAI V. • ^ PATEL:
 SHRI ABDUL GHANI:

Will the PRIME MINISTER be pleased to refer to the answer given to Starred Question No. 672 in the Rajya Sabha on 19th September, 1963 and state;

\$The question was actually asked on the floor of the House by Shri A. B. Vajpayee.

† [] English translation.

(a) whether the enquiry in to the charges levelled against the Chief -Minister of Punjab by the non-Com-ominist Opposition Parties has been completed; and

(b) if so, the result thereof?]

बैदेशिक कार्य मंत्रालय में उपमंत्री (श्री दिनेशसिंह) : (क) और (ख) सब सम्बद्ध बातों पर विचार करने के बाद प्रधान मंत्री जी ने राष्ट्रपति जी से सिफारिश की थी कि पंजाब के मुख्य मंत्री के विरुद्ध लगाये गये आरोपों की जांच कमीशनर्स आफ इन्क्वायरी एक्ट, १९५२ के अन्तर्गत एक उच्च अधिकारी से करायी जाय। राष्ट्रपति जी ने प्रधानमंत्री जी की सिफारिश स्वीकार कर ली है और एक जांच आयोग को, जिस में भारत के भूतपूर्व मुख्य न्यायाधीश श्री एस० आर० दास होंगे, नियुक्त करने के लिये एक अधिसूचना असाधारण गजट भाग २—खंड ३—उपखंड २, दिनांक १ नवम्बर, १९६३ में जारी कर दी गई है। आयोग को अपनी रिपोर्ट १ फरवरी, १९६४ तक देने के लिए कहा गया है।

†[THE DEPUTY MINISTER IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI DINESH SINGH): (a) and (b) After considering all the relevant factors, the Prime Minister recommended to the President to have an inquiry made into the charges levelled against the Chief Minister of the Punjab, by a high authority under the Commissions of Inquiry Act, 1952. The President has accepted the Prime Minister's recommendation and a notification appointing a Commission of Inquiry consisting of Shri S. R. Das, formerly Chief Justice of India, was issued in the *Gazette of India Extraordinary*, Part II, Section 3, Subsection (ii), dated the 1st November, 1963. The Commission is required to submit its report before the 1st February, 1964.]

SHRI A. B. VAJPAYEE: The Prime Minister's note to the President and the subsequent appointment of the Das Commission have failed to honour the Government's assurance given in this House that the moral issues involved in the judgment of the Supreme Court will be kept in mind. Are we to understand that the Prime Minister has finally decided to gloss over the serious implications of the strictures of the Supreme Court passed against the Chief Minister of Punjab?

AN HON. MEMBER: It is not a question.

SHRI A. B. VAJPAYEE: It is not for you to remark.

SHRI JAWAHARLAL NEHRU: I really do not—in spite of the hon. Member's subsequent interjection—understand what kind of information he expects. The moral issues have always been kept in view and, no doubt, will be kept in view by the Commissioner, Mr. S. R. Das, who is considering this matter.

SHRI A. B. VAJPAYEE: Are we to understand that the judicial enquiry has been ordered to take into consideration the moral issues or it is for the Prime Minister to consider the moral issues involved?

SHRI JAWAHARLAL NEHRU: As I have said, I have kept them in view and I gave my recommendation to the President on the basis of my judgment of the situation including the moral issues involved.

SHRI A. B. VAJPAYEE: The hon. Prime Minister in his note to the President has referred to the enquiry conducted by some Congress leaders. Apart from the gross impropriety committed by the Prime Minister in referring to a Party enquiry in his recommendation to the President, may

I know whether the Government wants the Commission also to take into consideration the allegations made by the Congress legislators and the findings of the Congress leaders' committee thereon?

SHRI JAWAHARLAL NEHRU: The hon. Member, in the course of his supplemental cast all kinds of aspersions on me. I do not propose to reply to them or deal with them. But in my recommendation to the President I had given a slight history of the past and in the course of it that this fact was stated, and it is over. Now, what Mr. S. R. Das chooses to look into, how he should proceed, it is up to him to decide. He is the master of the procedure and of what he does.

SHRI DAHYABHAI V. PATEL: Does the Prime Minister expect this enquiry to bring forth any fair result, when on the one hand the Punjab Chief Minister sits as the Chief Minister and witnesses have to come before the Commission and give evidence? When the Punjab Chief Minister is in authority there, how can witnesses come forward and give evidence freely and without fear?

MR. CHAIRMAN: Do you want to elicit some information or is it a comment? If it is information you want, you already know it.

SHRI DAHYABHAI V. PATEL: I would like to ask the Prime Minister whether any fair result can come out when the person who is under investigation sits in high authority there.

SHRI JAWAHARLAL NEHRU: It is a very unfair charge to make on a person like the former Chief Justice of India that he cannot hold a fair enquiry because the Chief Minister might continue to be Chief Minister. The other aspect is, removing him is prejudging him.

MR. CHAIRMAN: Shri Abdul Ghani.

SHRI DAHYABHAI V. PATEL: I think the Prime Minister has misunderstood my question. It is not a reflection on anyone.

MR. CHAIRMAN: Would you please sit down? Mr. Ghani.

شری عبد الغنی : کہا پرائم منسٹر صاحب فرمائیں گے کہ جب وہ چارچر ایک کمیشن کے سپرد کر رہے تھے تو انہوں نے جو نوٹ راسٹریٹی کو بھیجا اس میں انہوں نے ان کی صفائی کرنے کی کوشش کی - ائر انہوں نے یہ بات کی تو کس بنا پر کی - کہا وہ ہاؤس کے سامنے تمام ایکٹ کو دکھیں گے -

[श्री अब्दुल गनी : क्या प्राइम मिनिस्टर साहब फरमायेंगे कि जब वह चार्ज्ड एक कमिशन के सिपुर्द कर रहे थे तो उन्होंने ने जो नोट राष्ट्रपति को भेजा उस में उन्होंने ने उन की सफाई करने की कोशिश की ? अगर उन्होंने ने यह बात की तो किस बिना पर की ? क्या वह हाउस के सामने तमाम एक्ट को रखेंगे ?]

श्री जवाहरलाल नेहरू : मालूम होता है माननीय सदस्य ने गौर से नहीं पढ़ा जो मैंने अपनी सिफारिश में प्रजीडेंट को लिखा है । उस में इन सब सवालों के जवाब है ।

SHRI BHUPESH GUPTA: When an enquiry of this type is instituted under the Commissions of Enquiry Act, only a short communique is issued by the Government and announcement is made. May I know the extraordinary reason why, while making the appointment of this enquiry, the Prime Minister thought fit to make such a long statement running into several hundred words

about this matter? Was it called for? We would like to have some enlightenment on this aspect of the subject.

SHRI JAWAHARLAL NEHRU: I can only refer the hon. Member to the long statement that has been made. I have dealt with various matters of public interest, and I thought I should deal with them; and therefore I have dealt with them.

SHRI BHUPESH GUPTA: When on other enquiries or investigations it is open to the Prime Minister to make a statement in the House and say this thing in a Press Conference, but this particular announcement

MR. CHAIRMAN: It is open to him to do many things, and that is one of the things he has done.

SHRI BHUPESH GUPTA: I am trying to concentrate on a simple thing rather unprecedented within our experience in this House. When an announcement was made to that effect, it was immediately accompanied by a long statement by the Prime Minister which covered many aspects which may form the subject-matter of the enquiry. Was it really called for? That is what I am asking. Or, would it not have been better if he simply made the announcement instead of making the needlessly long statement?

DIWAN CHAMAN LALL: What is wrong with that?

SHRI DAHYABHAI V. PATEL: I would like to make a clarification. I mean no reflection on the person who is expected to go into this enquiry, who has been entrusted with this enquiry. The Prime Minister has misunderstood me. It was the Punjab Chief Minister and the Home Minister who criticised the judgment. I never criticised it. There is no aspersion on him. My simple question was, when the Punjab Chief Minister sits in high authority and when his past actions

have been the subject of criticism by the Supreme Court, would it not amount to intimidation of witnesses, who are to come before the Judge, and therefore how can we have an enquiry into this matter?

SHRI JAWAHARLAL NEHRU: I do not think so, Sir. I do not think there is any necessity for fearing that evidence will be prevented. The gentlemen who made these charges or have been making all manner of charges all the time and repeatedly, nobody prevents them. They can come and give evidence to that effect or bring others.

SHRI A. D. MANT: May I respectfully ask the Prime Minister whether he suggested to the Punjab Chief Minister that during the pendency of the enquiry he should not at least be in charge of those Departments which are the subject of enquiry? He will be in charge of the records, and he is an accused person. Was the suggestion ever made to him? *(Interruptions)* I want an answer, Sir.

SHRI JAWAHARLAL NEHRU: No such suggestion has been made.

SHRI B. D. KHOBARAGADE: From the Press Note we learn that the enquiry will be in camera. I would like to know from the hon. Prime Minister what are the difficulties he has experienced in referring this matter to a Tribunal which would hold an open enquiry and whether this suggestion would be accepted by the hon. Prime Minister.

SHRI JAWAHARLAL NEHRU: The Commissions of Enquiry Act says that the enquiry might be held in public or in camera. It is open entirely to the Commissioner enquiring into the matter to decide how he will hold it, whether it will be open or private, or part will be open and part will be private. I have made recommendation to the President that it will be desirable to hold it in camera; otherwise things like this would create a great deal of excitement which affect even the course of justice.

SHRI G. MURAHARI: The Prime Minister while answering the question says that a lot of excitement is bound to be created by an open enquiry, but he does not realise that the very fact that it is being held in such secret is causing a greater amount of excitement in the country and also a suspicion in the minds of the people that there is a lot of shielding going on of the Chief Minister of Punjab. Therefore, I would request the Prime Minister /even at this stage to institute an open enquiry so that if the Chief Minister of Punjab is really not guilty, it will be quite openly known.

MR. CHAIRMAN: The Question Hour is not the time for making requests.

SHRI G. MURAHARI: I have made a suggestion and I would ask the Prime Minister to accept the suggestion.

MR. CHAIRMAN: This is not the time to make requests.

SHRI A. B. VAJPAYEE: In his note to the President the hon. Prime Minister has referred to Mr. Kairon's popularity in the Army circles. May I request the Prime Minister to elucidate the statement which seeks to project political controversies in the Defence ranks also? May I know how he has ascertained Mr. Kairon's popularity in the Army circles? Was there any Gallup poll?

SHRI JAWAHARLAL NEHRU: I know something about the Army both in Punjab and elsewhere.

SHRI A. B. VAJPAYEE: This is no reply.

MR. CHAIRMAN: Next question.

شری عہد الغلی : جناب - مہرا
بھی ایک اور سوال آ جانے دیجئے -

†[श्री अब्दुल गनी : जनाव, मेरा
भी एक और सवाल आ जाने दीजिये ।]

श्री सभापति : मैं आप को मौका दे
चुका हूँ ।

सरदार रघुबीर सिंह पंजहजारी : आप
कांग्रेस पार्टी को भी मौका दीजिये कुछ
क्वेशन्स करने का ।

SHRI G. MURAHARI: Sir, I want to demand a Half-an-hour Discussion on the answers that were given to this question.

SHRI B. D. KHOBARAGADE: It is important that we should have a Half-an-hour Discussion on this question.

MR. CHAIRMAN: I will consider that later.

CONCENTRATION OF PAKISTANI TROOPS NEAR KARIMGANJ IN ASSAM

*37. SHRI SITARAM JAIPURIA: Will the PRIME MINISTER be pleased to state:

(a) whether Government are aware that Pakistani troops are heavily concentrated near the Karimganj border in Assam;

(b) whether it is a fact that Pakistani labourers are constructing trenches and bunkers on the other side of the Indian border; and

(c) if the answers to parts (a) and (b) above be in the affirmative, what action has been taken by Government in this connection?

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRIMATI LAKSHMI N. MENON) : (a) and (b) Yes, Sir. Reports to this effect are being received from time to time.

(c) Besides protesting to Pakistan at the appropriate level, steps have also been taken to reinforce patrolling of Indian territory in areas opposite which, Pakistan border and other

†[] Hindi transliteration.