

## RAJYA SABHA

*Wednesday, the 3rd August, 2011/12th Shravana, 1933 (Saka)*

The House met at eleven of the clock,

MR. CHAIRMAN in the Chair.

### ORAL ANSWERS TO QUESTIONS

MR. CHAIRMAN: Question No. 41, please.

#### Supreme Court Decision on Salwa Judum

\*41. SHRI K.E. ISMAIL: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that the Supreme Court has declared the deployment of tribal youths as special police officers — such as Koya Commandos, Salwa Judum or any other force — as illegal and unconstitutional and ordered the Chhattisgarh Government and the Centre for immediate disarming of these forces; and

(b) if so, the details thereof and Government's reaction thereto?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI JITENDRA SINGH):  
(a) and (b) A Statement is laid on the Table of the House.

#### *Statement*

(a) and (b) The Hon'ble Supreme Court *vide* order dated 5th July, 2011 in the Writ Petition (Civil) No. 250 of 2007 Ms. Nandini Sundar and others *versus* Government of Chhattisgarh has, *inter alia*, directed the Government of Chhattisgarh to immediately cease and desist from using Special Police Officers (SPOs) against naxalite activities in the State, and to forthwith make every effort to recall all firearms issued to the SPOs. A direction has also been given by the Hon'ble Supreme Court to the Central Government to cease and desist, forthwith, from using any of its funds in supporting, directly or indirectly, the recruitment of SPOs by the State Governments for operations against the naxalites. Further, Hon'ble Supreme Court has held the appointment of SPOs by the State of Chhattisgarh to perform any of the duties of regular police officers, other than helping people in relief measures during the disaster situations and facilitating orderly movement of people and vehicles and to control and regulate traffic, to be unconstitutional.

The Government of India is examining the matter in consultation with the Ministry of Law.

श्री पुरुषोत्तम खोडाभाई रूपाः सर, हरियाणा में सरकार जमीन ...(व्यवधान)...

श्री सभापति: अभी बैठ जाइए।

श्री पुरुषोत्तम खोडाभाई रूपाः सर, हरियाणा में सरकार गायों की जमीन ...(व्यवधान)...

श्री सभापति: क्वेश्चन आवर चलने दीजिए।

श्री पुरुषोत्तम खोडाभाई रूपाः सर, वहां गायों की जमीन सरकार खा गयी है और सरकार जवाब नहीं दे रही है ...(व्यवधान)...

MR. CHAIRMAN: Please. ...*(Interruptions)*...

श्री रामविलास पासवान: सर, बिहार में जो हो रहा है, उस पर कौन बोलेगा? ...(व्यवधान)...

श्रीमती वृंदा कारत: सर, बंगाल में जो हो रहा है ...(व्यवधान)...

MR. CHAIRMAN: Let the question be answered. ...*(Interruptions)*...

SHRI K.E. ISMAIL: \* The Supreme Court's verdict clearly points out that the actions of Salwa Judum in the pretext of countering Maoists have been in violation of human rights and the Constitution. That the State Government as well as the Central government are not willing to accept the verdict in its full is evident from their responses. The State Government of Chhattisgarh is planning to induct the Special Police Officers who were members of Salwa Judum.

MR. CHAIRMAN: Please ask the question.

SHRI K.E. ISMAIL: \* The State Government of Chhattisgarh is planning to induct the Special Police Officers who were members of Salwa Judum in the regular police force. Has this come to the notice of the Central Government?

SHRI P. CHIDAMBARAM: Yes, Sir, it has come to our notice that the Government of Chhattisgarh has promulgated an ordinance called the Chhattisgarh Auxiliary Armed Police Force (Ordinance), 2011.

SHRI K.E. ISMAIL: \* Will the Central Government set up a high level body to conduct a fair and impartial enquiry into the repercussions of the actions of Salwa Judum? Several C.P.I workers and human rights activists have been implicated in false cases and sent to jail in Bastar area in the name of Maoist hunt. Has this come to the notice of the Central Government? What steps are you contemplating to prevent these illegal actions?

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\*English version of the original speech made in Malayalam.

SHRI P. CHIDAMBARAM: Sir, the judgment is an elaborate judgment. It deals with allegations pertaining to the Salwa Judum; it has as well given certain directions about how the SPOs could be engaged and where the SPOs should not be engaged. As far as the Government of India is concerned, there are certain directions to the Government of India; we are examining those directions in consultation with the Ministry of Law and the State Governments concerned.

As far as the Salwa Judum is concerned, there are some directions to the State of Chhattisgarh, there are also some directions to the CBI to conduct an investigation into certain incidents that took place in March, 2011. I am sure, the authorities, or the agencies to whom directions have been given, will carry out those directions or go back to the Supreme Court if they need clarifications.

As far as the directions to the Government of India are concerned, as I said, we are examining those directions in consultation with the Ministry of Law.

SHRI D. RAJA: The question is substantive. It affects the States...

MR. CHAIRMAN: It is not your turn, Mr. Raja. Please allow the proceedings to continue. ...*(Interruptions)*... Mr. Raja, please sit down. You are taking the precious time; please do not do that.

SHRI D. RAJA: \*

MR. CHAIRMAN: I am afraid, this is not going on record. What you are saying is of no relevance.

SHRI D. RAJA: \*

MR. CHAIRMAN: No, it is not. ...*(Interruptions)*...

SHRI D. RAJA: \*

SHRI P. CHIDAMBARAM: This is only about the Salwa Judum.

MR. CHAIRMAN: Please, follow the procedures of the House.

SHRI D. RAJA: \*

MR. CHAIRMAN: No, no, you can't interfere like this. Shri Motilal Vora.

SHRI MOTILAL VORA: Mr. Chairman, Sir, I would like to know from the hon. Home Minister whether the Government of Chhattisgarh has implemented the order of the Supreme Court of India,

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\*Not recorded

and whether the statement made by the DGP of Chhattisgarh has come to the notice of the hon. Home Minister wherein the DGP of Chhattisgarh has said, "We are withdrawing the arms given to them, but we will still be taking some work from them." If yes, then what type of work are they going to take from those persons who have been employed?

SHRI P. CHIDAMBARAM: Sir, the statement of the DGP of Chhattisgarh has come to my notice. That statement was made before the Ordinance, that I referred to earlier, was promulgated. That statement was in compliance with the Supreme Court's direction that the SPOs could be engaged only for certain tasks and could not be engaged for certain other tasks. Subsequently, as I said, an Ordinance has been promulgated. This Ordinance has come to our notice a couple of days ago. This Ordinance is within the jurisdiction of the Government of Chhattisgarh. Under the Ordinance, they propose to take some steps to train and regularise a certain section of the SPOs. So, how they implement this Ordinance, whether this Ordinance will be replaced by a law when the Chhattisgarh Assembly meets, these are matters on which I cannot speculate. But, this Ordinance, *prima facie* is within the legislative powers of the State of Chhattisgarh.

SHRI RAVI SHANKAR PRASAD: Sir, the hon. Home Minister would be aware that immediately after the judgement, there was an attack on the Congress President in the State of Chhattisgarh where by sheer providence he was saved, but four Congress workers were killed. The Maoists target all the political parties and all the political activists and others. This judgement, apart from its ideological stand which is a different matter altogether, gives a blanket direction to terminate all the SPOs, including of the Government of India. The hon. Home Minister would be very much aware that SPO is a concept in different shapes all over. Even in Jammu and Kashmir, the Village Protection Committee is there, and you have awarded to many of the brave girls who fought against the terrorists. This judgement has long term implications. Impinging upon the security of the country, we cannot wish away the Maoist threat. My simple question to the hon. Minister is this. You have said that you are considering it. Does the Government of India propose to seek a review of this far-reaching judgement?

SHRI P. CHIDAMBARAM: Sir, SPOs are engaged in nine States. In fact, the SPO is a long-standing arrangement in many States, for example, in Jammu and Kashmir. In Chhattisgarh and in

Orissa, the SPOs have been engaged for certain very limited task in the conflict with the left-wing extremists. That is because the SPOs bring to the task certain special skills and certain special knowledge which is otherwise not available to the para-military force personnel. This judgement, indeed, has far-reaching implications. That is precisely why I say, "We must approach this matter with due caution and care." One step has been taken by the Government of Chhattisgarh. The Chief Minister came and met me; and he briefed me. I told him to take proper legal advice. He has since informed me that he has taken the best legal advice available and they have promulgated this Ordinance. I think the Ordinance deals with one part of the judgement, but the larger question remains. That question is under my consideration. One of the matters under consideration is, what the hon. Member said, should we go back to the Supreme Court for a review. We will take a decision in the next few days.

SHRI MANI SHANKAR AIYAR: Sir, to deal with the menace of naxalism in Fifth Schedule Areas, can the Minister of Home Affairs please assure the House that development funds, including IAP funds are being disbursed in full conformity with part IX of the Constitution and PESA, and if not, why is the Government not invoking its powers under paragraph 3 of the Fifth Schedule to give directions in this regard to the State Governments concerned?

SHRI P. CHIDAMBARAM: Sir, I will be happy to answer the question, except that I don't have PESA with me at the moment. I don't have the Act. But I will be happy to answer the question based on my limited knowledge of the Act. IAP funds for 2010-11 and 2011-12 have been placed at the disposal of a Committee of three District Officers, the District Magistrate, the District Superintendent of Police and the District Forest Officer and initially Rs. 1500 crores and Rs. 1800 crore have been made available at the rate of Rs. 25 crores per district and Rs. 30 crores per district. I am happy to inform the House that in all the affected districts a very large number of works have been taken up and completed. In fact, we will have another review, through video-conference, on the 19th of this month when we hope that we would have achieved about 75 or 80 per cent of the targeted works. As far as applying PESA and channeling these funds through Panchayat institutions is concerned, that, according to the Cabinet decision, is intended to be implemented from 2012-13 in the new Plan

period. In these two years, because the Panchayat institutions are either weak or non-existent in some of these areas and because it is extremely important that some of these very essential works are implemented very quickly, this approach has been adopted, but the decision of the Cabinet is, from 2012-13, it will be done through Panchayat institutions.

SHRI MANI SHANKAR AIYAR: Can we have a discussion on this?

MR. CHAIRMAN: That is a separate matter.

#### **उत्तरलाई हवाई अड्डे के चारों ओर जिप्सम का अवैध खनन**

**\*42. श्री ओम प्रकाश माथुर :** क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार को बाड़मेर स्थित सामरिक दृष्टि से महत्वपूर्ण उत्तरलाई हवाई अड्डे के चारों ओर जिप्सम के अवैध रूप से हो रहे खनन की जानकारी है;

(ख) यदि हां, तो क्या सरकार को वहां तैनात सैन्य अधिकारियों की ओर से इस बारे में कोई शिकायत प्राप्त हुई है, और यदि हां, तो उस पर क्या कार्रवाई की गई है; और

(ग) क्या सरकार ने राज्य सरकार अथवा जिला प्रशासन से इस संबंध में कोई जानकारी मांगी है?

**रक्षा मंत्री (श्री ए.के. अन्तोनी):** (क) से (ग) एक विवरण-पत्र पटल पर रखा जाता है।

#### ***विवरण***

(क) से (ग) वायु सेना स्टेशन उत्तरलाई के चारों ओर जिप्सम के अवैध खनन का मामला वायु सेना के अधिकारियों द्वारा बाड़मेर जिला प्रशासन के साथ उठाया गया है। वायु सेना और जिला प्रशासन के बीच मासिक समन्वय बैठकों में भी इस मामले पर नियमित रूप से चर्चा की गई है। वायु सेना ने रिपोर्ट दी है कि इस संबंध में वायु सेना और सिविल प्राधिकारियों द्वारा किए गए संयुक्त प्रयासों के बाद उत्तरलाई वायु सेना स्टेशन के चारों ओर अवैध खनन की गतिविधियों में काफी कमी आई है।

#### **Illegal mining of gypsum around Uttarlai Airport**

**†\*42. SHRI OM PRAKASH MATHUR:** Will the Minister of DEFENCE be pleased to state:

(a) whether Government is aware of illegal mining of gypsum taking place around strategically important Uttarlai airport located at Barmer;

(b) if so, whether Government has received any complaint from defence officers posted there in this regard and, if so, the action taken thereon; and

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†Original notice of the question was received in Hindi.