

THE VICE-CHAIRMAN (SHRI SUKHENDU SEKHAR ROY): Now the Delhi Special Police Establishment (Amendment) Bill, 2014. ...*(Interruptions)*...

SHRI D. RAJA: Sir, what is this? ...*(Interruptions)*... I am asking you one question. ...*(Interruptions)*... He was referring to one circular. ...*(Interruptions)*... That circular is not honoured by many States.

THE VICE-CHAIRMAN (SHRI SUKHENDU SEKHAR ROY): It has been concluded...*(Interruptions)*... Mr. Minister has taken note of everything...*(Interruptions)*... All right. ...*(Interruptions)*... Now the Delhi Special Police Establishment (Amendment) Bill, 2014. ...*(Interruptions)*...

GOVERNMENT BILL

The Delhi Special Police Establishment (Amendment) Bill, 2014

THE MINISTER OF FINANCE; THE MINISTER OF CORPORATE AFFAIRS AND THE MINISTER OF INFORMATION AND BROADCASTING (SHRI ARUN JAITLEY): Sir, on behalf of my colleague, Dr. Jitendra Singh, I move:

That the Bill further to amend the Delhi Special Police Establishment Act, 1946, as passed by Lok Sabha, be taken into consideration.

Sir, the rationale behind this Bill requires a little explanation. This House had debated at length the Lok Pal Bill.

(MR. DEPUTY CHAIRMAN *in the Chair.*)

In the Lokpal Bill, there were two specific provisions. One, seeking to introduce a provision for the appointment of the Lokpal and the members of the Lokpal. In the same Bill, corresponding arrangements were also made to the CVC law, as also to the Delhi Special Police Establishment Act. The Delhi Special Police Establishment Act is a legislation of 1946. Under our Constitution, law and order is a State subject. So, a question had arisen what would happen to the employees of the Central Government, if there were areas of charges against an employee of the Central Government. In view of the federal structure, which we were creating, will a State police go into the conduct of the employee of a Central Government? Now, this was considered as contrary to federal principles. So, initially the Central Government must have its own police force. And, this police force was only to investigate cases against public servants, who were employees of the Central Government. Thereafter, the jurisdiction expanded and the CBI was created by this Delhi Special Police Establishment Act. This was the rationale

behind the Act. Thereafter, it expanded and besides cases of corruption and criminal misconduct against employees of the Central Government, the CBI started investigating other cases that were also assigned to it. Then, a question arose: Can the CBI, being a police force of the Central Government, investigate cases in relation to a State? So, a special power has been given under that Act that you can do it, but the consent of the State is necessary because federal principles come into force. The Supreme Court, through its Constitution Bench, brought one change in the law that you require the consent of the State if there is some incident in the State to get the CBI to investigate. But, in case a High Court or the Supreme Court, pursuant to its constituent power, that is, Article 226 and Article 32, directs that a case be investigated by the CBI, then, even if it is a case of a State, they don't need a consent of the State. Now, people have made comments at various times that this is contrary to the federal principle because if constituent power of the court is a constitutional power, the federalism is also a constitutional power. But that is not the debate that we are concerned with. अब प्रश्न यह उठा कि सी.बी.आई. डायरेक्टर की नियुक्ति कौन करेगा? लोकपाल बिल, जिसमें इसका संशोधन हुआ, उसमें यह प्रश्न उठा कि लोकपाल की नियुक्ति कौन करेगा? अगर अधिकार केवल सरकार के पास है तो उस नियुक्ति के अधिकार का राजनीतिक दृष्टि से दुरुपयोग भी हो सकता है। इसलिए जब इस सदन ने लोकपाल बिल पारित नहीं किया और वह विषय सेलेक्ट कमिटी को गया, उसकी रिकमंडेशंस आई, तो हमने पांच सदस्यों का कॅलीजीअम बनाया, जो लोकपाल की नियुक्ति करेगा। सेलेक्ट कमिटी ने यह भी सिफारिश की, कि दिल्ली स्पेशल पुलिस एस्टैब्लिशमेंट एक्ट को भी तब्दील कर दिया जाए और सीबीआई डायरेक्टर की नियुक्ति भी तीन लोग करेंगे - प्रधानमंत्री, चीफ जस्टिस ऑफ इंडिया and the Leader of the Opposition in Lok Sabha. अब यह बिल इस सदन ने पारित कर दिया और इसमें ये दोनों अमेंडमेंट्स हो गए। इन अमेंडमेंट्स के पश्चात् - अब दो तारीख को मौजूदा डायरेक्टर की रिटायरमेंट है, तो उससे पहले नियुक्ति होनी है। अब एक विशेष राजनीतिक परिस्थिति पैदा हुई, मैं उस बहस में नहीं जाता कि राज्य सभा में लीडर ऑफ अपोजिशन रिकग्नाइज्ड हैं, लोक सभा में इस वक्त रिकग्नाइज्ड नहीं हैं, लेकिन लीडर ऑफ लार्जस्ट पार्टी इन अपोजिशन वहां हैं। अगर आवश्यकता पड़ेगी तो मैं इस बहस का भी उत्तर दे सकता हूँ, लेकिन अभी मैं इसमें उलझने की आवश्यकता नहीं समझता। जब नेशनल जुडिशियल कमीशन का बिल पास हुआ तो हमें लगा कि इसमें चूंकि लीडर ऑफ दि अपोजिशन लोक सभा का रहता है और यह एक वास्तविक स्थिति हमारे सामने आ गई कि रिकॉग्नाइज्ड लीडर ऑफ अपोजिशन नहीं है तो हमने उसकी भाषा में परिवर्तन कर दिया और दोनों सदनों ने उसे सर्वसम्मति से पारित कर दिया कि उस कॉलेजियम में लीडर ऑफ लॉर्जस्ट पार्टी इन अपोजिशन इन दि लोक सभा रहेंगे, ताकि अगर मान्यता प्राप्त नहीं भी है तब भी विपक्ष की भागीदारी इसमें होनी चाहिए, इसलिए इसमें सबसे बड़े विपक्षी दल का हिस्सा रहेगा। सरकार ने अब यह तय किया कि इसी सिद्धांत के आधार पर जहां-जहां लीडर ऑफ अपोजिशन आता है वहां-वहां सब पर अगर आम राय बनती है तो हमें कोई तकलीफ नहीं है, हम उसको लीडर ऑफ

[Shri Arun Jaitley]

लॉर्जस्ट पार्टी इन अपॉजिशन करने के लिए तैयार हैं, क्योंकि लोकतंत्र में विपक्ष की भी एक भूमिका रहती है। रि कॉगनाइज्ड न भी हो, तो इसलिए वहां पर लीडर ऑफ लॉर्जस्ट पार्टी इन लोक सभा उसमें रह सकता है। जुडिशियल कमीशन का बिल जो नई सरकार बनने के बाद पारित हुआ, हमने भाषा में परिवर्तन कर दिया। अब सरकार की यह इच्छा है, इसलिए यह प्रस्तावना है। इसको लोक सभा ने तुरन्त पारित किया, हम भी पारित करें और मौजूदा नियुक्त में भी केवल दो बकाया सदस्य प्रधानमंत्री और चीफ जस्टिस के साथ-साथ लीडर ऑफ लॉर्जस्ट पार्टी इन लोक सभा भी बैठे जब सी.बी.आई. डॉयरेक्टर की नियुक्ति होती है। इसके बाद जो लोकपाल बिल है, उसमें भी इसी प्रकार संशोधन हमें लाना पड़ेगा। और शायद हमें, “शायद” में कह रहा हूँ कि सी.वी.सी. बिल में ऐसा प्रावधान है, वहां भी इसको लाना पड़ेगा। लेकिन उसमें अभी अर्जेंसी नहीं है क्योंकि नियुक्ति तुरन्त नहीं होनी, लेकिन सी.बी.आई. डॉयरेक्टर की नियुक्ति तुरन्त होनी है। इसलिए यह बहुत छोटा बिल है जिसमें हमने कहा, “The Leader of the Opposition recognized as such in the House of People or where no such Leader of the Opposition exists, then the Leader of the largest party in Opposition.” और मुझे लगता है कि इसको लेकर एक आम राय है। मैंने देखा कि माननीय सदस्यों में जिसको लेकर चर्चा है, वह दूसरे प्रावधान के बारे में है। The second provision with it is that no appointment of a Director shall be invalid merely by reason of any vacancy or absence of a member of the Committee. Now, various kinds of amendments are being suggested and let me say with utmost humility that those amendments are not acceptable. The reason I can tell you is that we want the Leader of the largest party in Opposition or the Leader of the Opposition to be there. That is why, we are, on our own initiative, bringing this Bill. In all legislations, whether brought by the UPA or the NDA ever, where collegiums make the appointment, this identical provision exists throughout. Barring one law, in all such legislations, it exists. For instance, in the case of Central Vigilance Commission, appointment is made by the Prime Minister, the Home Minister and the Leader of the Opposition. No appointment of the Central Vigilance Commissioner or the Vigilance Commissioner shall be invalid merely by reason of any vacancy. In case of the National Judicial Commission, no act or proceedings of a National Judicial Commission shall be questioned or to be invalidated merely on the ground of existence of vacancy or defect in the constitution of the Commission. In case of Lokpal, no appointment of Chairperson or member is invalid merely by reason of vacancy of any member in the Committee. This is the consistent provision which exists. The reason is, out of three members, if one member says that he or she won't attend the meeting, then, the collegiums loses its purpose. वह एक सदस्य जाएगा नहीं तब तक नियुक्ति हो नहीं सकती। तो कॉलेजियम के स्थान पर हमने एक व्यक्ति को वीटो दे दिया। आपको सूचना दी जाएगी, आपकी जो परम्परा इस देश में बनी है राज्यों में भी बनी है, केन्द्र में भी बनी है कि मीटिंग से पहले तीनों या जितने भी सदस्य हैं उनकी कन्वीनिअंस पता कर ली जाती है। We find out the convenience

of all members whenever meetings are to be held. After all, Lokayuktas are appointed in every State in consultation with the Leader of the Opposition. Every Chief Minister finds out the convenience of the Leader of the Opposition. The Chief Justice is there. Meetings are fixed. List of people eligible and under consideration is also given in advance. Some civil servant goes to them in advance and some consensus-building takes place, formal appointments take place in the meeting. Now, we have two options; and I am saying this with utmost respect. If we delete this provision or bring some changes into it, we are deviating from the consistent course of language, which we are using throughout. This is not a language decided by the political executive; the Legislative Department has a role to play. Now, some laws are by NDA and some are by UPA. These are not drafted by politicians or Ministers. These are drafted really by the legislative experts. Wherever a collegium makes an appointment, everybody is given notice, his convenience is ascertained. If somebody boycotts the meeting, then he can't hold the decision to ransom. I can give you an example. Supposing the vacancy arises in a State or it can happen in the Centre. In a State, Article 356 is there. There is no Leader of the Opposition, there is no Chief Minister. You may probably wait. Since now we are dealing with the Centre, supposing that the Parliament is dissolved. But you will always have a Prime Minister, you will always have a Chief Justice of India or an acting Chief Justice. Today that situation doesn't exist. Such rare opportunities can arise. So, the intention of the Government is very clear. Even though there is no recognized Leader of the Opposition in the Lok Sabha, we want the Leader of the largest party in Opposition in Lok Sabha to be participating in this. Meetings will be fixed with his convenience. But we have to safeguard ourselves against contingencies. If despite knowledge, notice, somebody decides for some reason or the other or that post is vacant for some reason, then the system can't stop working. In this case, the appointment has to be made before the 2nd. That is why on the very first day, we tried to bring this amendment. If we pass it now, we need Presidential assent, and then we need, in the next two or three days, to call the meeting and make the appointment – that is our intention – and do it by consensus. What is our experience? In CVC, the UPA deviated from the consensus. So, it was by voting. The then Leader of the Opposition dissented. The Supreme Court struck it down. So, we are conscious of the fact that you should try and build a consensus for these posts, keep them outside the area of politics, and I would, therefore, urge all my friends in the Opposition to see our intention. We have *suo motu* brought this. There was no pressure from the Opposition on us. Nobody had even suggested that you amend this law. We were careful to bring the National Judicial Commission Act by saying 'Leader of the largest Party in Opposition.' We want to amend this law; we want to amend other laws. Today you are in Opposition;

[Shri Arun Jaitley]

tomorrow others may be in Opposition. Our intention is that the system, at least, benefits and the Opposition has a say in these appointments, and therefore I would urge the hon. Members to pass this Bill. Since we are showing this gesture by bringing this legislation, this Bill should be really passed unanimously with whatever suggestions the hon. Members have. As far as the Government is concerned, I hope, everybody sees this and the spirit in which this is being brought. I am grateful.

With this, I move the Bill for acceptance of the House.

The question was proposed.

SHRI ANAND SHARMA (Rajasthan): Mr. Deputy Chairman, Sir, I rise to make our observations on the Motion moved by the Leader of the House for the amendment of the Delhi Special Police Establishment Act, 1946.

Sir, the Leader of the House has explained the background of the CBI as to why in 1946, this enactment had become essential, primarily, to enquire into allegations or charges of corruption against those officials of the Government who were not part of any State bureaucracy. And, therefore, a Central agency had to be established. Over the years, I agree with him, its role has expanded. It is sensitive. It is important. It is not a question of what the nature of investigations carried out by the CBI are, but there are so many developments in an expanding economy, where issues of regulation are involved; there are violations of regulations and rules, or some shadows about decisions taken or made, which attract allegations or otherwise. Therefore, the role of the agency becomes very sensitive and is always under public scrutiny and judicial scrutiny. As we have seen in the last two years, the Supreme Court has been very carefully monitoring not only the investigations in many matters, but also the reports of the Central Bureau of Investigation.

We know that the Government has come with this amendment. But this impression should not be created that the Government is obliging the Opposition. On the contrary, I would still maintain that this amendment was unnecessary if the Government had shown the grace to give the recognition, accepting the largest number test. There is no *de minima*. I disagree with the Leader of the House here. The Leader of the House has said that there is no recognized Leader of the Opposition. That was a political decision. Why? We have even seen—I don't want to get into those details -- that when a petition was made, it was rejected, and the reasoning that was given was fallacious and frivolous. It cannot stand an honest scrutiny. Where is the Leader of the Opposition described?

SHRI Y. S. CHOWDARY (Andhra Pradesh): Kindly go back to 1984 ...*(Interruptions)*...

SHRI ANAND SHARMA: Please do not interrupt me. You are a Minister in the Government. You won't interrupt. Please. We listened to the Leader of the House. Have some ...*(Interruptions)*... Please don't interrupt me. Please do not interrupt.

MR. DEPUTY CHAIRMAN: Mr. Minister, please. ...*(Interruptions)*... Mr. Minister, please. ...*(Interruptions)*...

SHRI ANAND SHARMA: Mr. Deputy Chairman, do we have a situation where a Minister is constantly interrupting the Opposition?

MR. DEPUTY CHAIRMAN: No, no. You may proceed. ...*(Interruptions)*... Mr. Anand Sharma, please proceed. ...*(Interruptions)*...

SHRI ANAND SHARMA: No, Sir. You have to tell the Minister to conduct himself as a Minister should.

MR. DEPUTY CHAIRMAN: Please proceed. Don't worry.

THE MINISTER OF STATE OF THE MINISTRY OF PLANNING; AND THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE RAO INDERJIT SINGH): Sir, he is telling you what to do. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No, no. Please ...*(Interruptions)*... No, no. Sit down.

SHRI NARESH GUJRAL (Punjab): Sir, he is asking the Chair ...*(Interruptions)*...

SHRI ANAND SHARMA: What are you saying? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: That is all right. ...*(Interruptions)*...

RAO INDERJIT SINGH: Sir, I am on a point of order. Can a Member direct the Chair? Please answer that. ...*(Interruptions)*...

SHRI ANAND SHARMA: I am not directing; I am asking. It is very much within my right. ...*(Interruptions)*... If the Government wants to interrupt, then you may interrupt. This is not correct. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please proceed.

SHRI ANAND SHARMA: When I listened with respect, why am I being interrupted? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please, don't disturb. ...*(Interruptions)*... Especially, Treasury Benches should not disturb. Please do not disturb. ...*(Interruptions)*... Now please continue.

SHRI ANAND SHARMA: Mr. Deputy Chairman, Sir, it is very sad. The right of an MP to disrupt or interrupt is different, but the right of a Minister is not there. ...*(Interruptions)*...

Now, Sir, I was referring to where the definition of 'the Leader of Opposition' comes from. What does the LoP mean, whether in this House or in the other House? There is only one Act, that is, the 1977 Act on Salaries and Emoluments of Leaders and Chief Whips, and subsequently, in 1998 and 1999, when the guidelines were issued. It is very easy for anybody to say that in 1952, there was a ruling of the Speaker. Whether it is the Speaker, as a custodian, or the Chairman in this House, it is the Act of Parliament which is superior. Now, if that definition of the 'Leader of the Opposition' of 1977 Act is meaningless and deals only with the salaries, deals only with the entitlements, then I have to draw the attention of this august House to the subsequent...

SHRI ARUN JAITLEY: Sir, I have to say something.

SHRI ANAND SHARMA: Okay, I will yield.

SHRI ARUN JAITLEY: Since, the hon. Member is going on the recognition aspect and he is on this so that the debate doesn't remain incomplete, 1980 and 1984, in terms of calendar, come after 1977. In 1980 and 1984, he should please tell us as to what was the position. His party was in power. Nobody had 55 seats in the Lok Sabha in the Opposition. Why did they then rely on the 1952 ruling?

SHRI ANAND SHARMA: Fine, I will tell him about it. It is a debate and I welcome that he has intervened. That is why I yielded. Now, let me make one thing clear here. If 1980 comes after 1952, then in 1993, there was an enactment regarding the National Human Rights Commission which makes it mandatory, when it comes to selection process, a Leader of the Opposition to be a Member of the Selection Committee. It came into effect in January 1994. If you read that, it takes the same definition. The mandate of Parliament from the 1977 Act is not the *de minimis* of 10 per cent. There is the RTI Act. There is the CVC Act of 2003. And, with all respect, I must tell the Leader of the House that the RTI Act and the other one, NHRC, make it absolutely clear. You can have a look at the explanation regarding the Leader of the Opposition. They have borrowed the same definition of 1977 Act.

SHRI ARUN JAITLEY: Sir, I have a point of order. We may have our own assessment and interpretations based on overall considerations. I disagree with my learned friend's interpretation. That is a different matter. But, the Speaker of Lok Sabha, now and on earlier occasions, has given a ruling. The ruling is that even the 1977 Act says, 'Leader of the Opposition recognised as such'. It does not say, 'Leader of the Opposition'. It says, 'Leader of the Opposition recognised as such'. That is the language. He will get the salary. Now, 'recognised as such' is governed by Mr. Mavalankar's ruling of 1952 that you need ten per cent to be recognised. That is the view that the current Speaker has taken and the earlier Speakers have taken. Is any Member of Rajya Sabha competent in Rajya Sabha to question that ruling of the Speaker of Lok Sabha?

श्री नरेश अग्रवाल (उत्तर प्रदेश) : सर, प्वाइंट ऑफ ऑर्डर पर हमें आपकी रूलिंग भी चाहिए। डिप्टी चेयरमैन साहब, यह लिखा हुआ है कि अगर कोई भी व्यक्ति प्वाइंट ऑफ ऑर्डर उठाएगा, तो चेयर को रूलिंग देनी पड़ेगी। हम आपकी रूलिंग सुनना चाहते हैं। बिना रूलिंग के कैसा प्वाइंट ऑफ ऑर्डर?

THE MINISTER OF URBAN DEVELOPMENT; THE MINISTER OF HOUSING AND URBAN POVERTY ALLEVIATION; AND THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI M. VENKAIAH NAIDU): Sir, with all respect to Shri Anand Sharma, I would like to say that the Speaker is not here to defend herself also. The Chair here cannot answer on behalf of the Speaker. It has been the practice of this august House all the time that we don't refer to the other House, and particularly about the Presiding Officer. I request Shri Anand Sharma to please leave that issue. We can criticize it outside, but here, we should continue the debate on the current issue.

SHRI ANAND SHARMA: The Leader of the House and the Minister of Parliamentary Affairs ...*(Interruptions)*...

श्री नरेश अग्रवाल : सर, हम चेयर की रूलिंग जानना चाहते हैं। ...*(व्यवधान)*... देखिए, या तो आप कहिए कि प्वाइंट ऑफ ऑर्डर invalid है। अगर प्वाइंट ऑफ ऑर्डर नियमों के तहत है, तो मैं आपकी रूलिंग इस पर जानना चाहूंगा। यह बात हिस्ट्री में लिखी जाएगी, यह किताबों में लिखी जाएगी, ऐसा नहीं कि ...*(व्यवधान)*...

MR. DEPUTY CHAIRMAN: If you are very particular, I can give a ruling.

SHRI ANAND SHARMA: No, I have something to say. I yielded, and, then, it is my right to respond before you say anything.

MR. DEPUTY CHAIRMAN: Okay.

SHRI ANAND SHARMA: I am clear on that. I have not made any aspersion or disparaging observation. I am talking about this Bill, which has been brought, and, the Leader of the Opposition or the Leader of the single largest party in Opposition in Lok Sabha. That is what you have brought here. So, it makes it essential for me to refer to that. It is absolutely essential that I have to give the chronology. It is in that context, in that spirit.

MR. DEPUTY CHAIRMAN: Let me make it clear.

SHRI ANAND SHARMA: Then, this discussion becomes meaningless if I cannot refer to all the enactments. All the enactments are passed by both the Houses of Parliament, Sir.

MR. DEPUTY CHAIRMAN: Please allow me to speak.

SHRI ANAND SHARMA: Whether it is the National Human Rights Commission Act, whether it is the Central Vigilance Commission Act, whether it is Right to Information Acts, everything is passed by both the Houses.

MR. DEPUTY CHAIRMAN: Please allow me to speak. Anyhow, the Leader of the House has raised a point of order. It is in the form of a point of order and some Members want a ruling on that. I am giving my position.

SHRI RAJEEV SHUKLA (Maharashtra): Sir, Venkaiah ji has already made it clear ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: That is what I am saying.

SHRI DEREK O'BRIEN (West Bengal): Sir, give the ruling tomorrow.

SHRI RAJEEV SHUKLA: We cannot comment on the Presiding Officer of the other House ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: That is what I am saying.

SHRI RAJEEV SHUKLA: I do not think it is necessary for the Chair to give a ruling.

श्री नरेश अग्रवाल : वेंकैया जी as a member कह रहे हैं। ...*(व्यवधान)*...

SHRI RAJEEV SHUKLA: You cannot force the Chair to give a ruling. ...*(Interruptions)*...

श्री नरेश अग्रवाल : ऐसा नहीं है। जो वेंकैया जी कहेंगे, क्या वही माना जाएगा?
...(व्यवधान)...

SHRI DEREK O'BRIEN: Sir, reserve your ruling for a later time.
...(Interruptions)...

श्री नरेश अग्रवाल : वेंकैया जी as a member कह रहे हैं। ...(व्यवधान)... वेंकैया जी के कहने से रूलिंग नहीं होगी। वेंकैया जी चेयरमैन को रूलिंग नहीं दे सकते।

MR. DEPUTY CHAIRMAN: I will make it clear. Number one, the ruling of the hon. Speaker of the other House cannot be discussed here. ...(Interruptions)... No, no. Please. But the Acts of the Parliament and the provisions in the Acts of Parliament can be discussed. That is my ruling on that. I have given my ruling.

SHRI ANAND SHARMA: I think, we are getting into a very unfortunate situation. There was no need. If there is an aspersion cast, if there is a disparaging observation made, that needs to be agitated and contested. If a debate is taking place about the selection process and the composition of the Selection Committee for the CBI Director, I am very much within my right to question the political intent of the Government. That is what I am saying.

MR. DEPUTY CHAIRMAN: I have given the ruling. Now, you proceed with your speech. You do not have to justify. I have given the ruling. You proceed now.

SHRI ANAND SHARMA: I am not justifying.

MR. DEPUTY CHAIRMAN: You can proceed now.

SHRI ANAND SHARMA: What did I justify? I am saying, I am questioning the Government.

MR. DEPUTY CHAIRMAN: I am saying, I have given the ruling.

SHRI ANAND SHARMA: Now, will the Government. ...(Interruptions)...

MR. DEPUTY CHAIRMAN: Mr. Anand Sharma, I am saying is that
...(Interruptions)...

SHRI ANAND SHARMA: Mr. Deputy Chairman, Sir, do I have the freedom to say what I want to say now? The Leader of the House was saying something, it is very easy for him to say, well, we brought this amendment because we want to include, we do not want to exclude. यह बताने की कृपा न करें कि आप बहुत उदारता दिखा रहे हैं या

[Shri Anand Sharma]

विपक्ष पर कोई एहसान सरकार की तरफ से हो रहा है। आप स्वयं जानते हैं। आप नेता प्रतिपक्ष भी रहे हैं, आप सरकार में पहले भी मंत्री रह चुके हैं और आज भी मंत्री हैं। आप जानते हैं कि पहले से ही यह प्रक्रिया है। इसके पीछे एक पृष्ठभूमि है, एक इतिहास है कि क्या कारण था कि एक सेलेक्शन प्रोसेस में सुप्रीम कोर्ट को हस्तक्षेप करना पड़ा और इसके लिए सुप्रीम कोर्ट ने डायरेक्शन दी कि आई.पी.एस. के चार बैचेज को क्रमवार देखा जाए, Central Vigilance Commission उसको scrutinize करे और उसके बाद एक पैनल तैयार हो। जब वह पैनल तैयार होता है, उसके बाद प्रधान मंत्री, मुख्य न्यायाधीश और नेता प्रतिपक्ष उस पैनल पर विचार करते हैं। आपने जो बात बताई, वह सर्वविदित है कि अधिकारी जाते हैं। जो पैनल बनता है, names under consideration are shown to the Members of the Selection Panel. It is not only for the CBI Director. I have referred to other enactments where the participation of the Leader of the Opposition is absolutely mandatory. You cannot appoint an RTI Commissioner without the Leader of the Opposition. You were there. You cannot appoint a Member of the NHRC without the Leader of the Opposition. So, same procedure is there for the CVC. Now here, what is happening? Since you did not agree, Speaker gave a ruling, and hon. Speaker's ruling is final. Nobody is questioning or contesting. So, there is no recognized Leader of the Opposition. You are right, and I am also right. Why do I say so? Because the *de minimis* is not there in 77. Yes, as recognized words are there, recognition is not there. That is why this situation has arisen. That is the point which I am making.

Now, what I am trying to say is that when this situation confronts the Government and the Parliament, how to proceed with the selection of the CBI Director. I do not, with due respect, agree that the Government could have proceeded on its own. Okay, if the Government wants to do that, you can proceed. But can you? Given the background, given the history, given the fact that the Leader of the Opposition is not there, here you are bringing this amendment because of non-recognition; therefore, the Leader of the largest party, again going by the largest number test. Fine! You have brought this. We appreciate that you seek and want to ensure the participation, as I understand, of the Leader of the largest single party in Opposition in the House of the People. That is what it is. My point is that three is not there in every enactment which the Leader of the House referred to. Yes, this particular language is there. This is a matter of fact; cannot be contested; has to be conceded. But then, it is also a fact, Mr. Deputy Chairman, and through you, I want to tell the Government that in the RTI Act, this provision is not there. Again, in the CBI selection process, this was not there. I would just read, take a minute, what this

amendment says. “Sub-section 1, the Leader of Opposition recognized as such in the House of the People or where there is no such Leader of Opposition, then the Leader of the single largest Opposition party in that House as a Member, (b) After subsection 1, the following sub-section shall be inserted, namely, no appointment of a Director shall be invalid merely by reason of any vacancy or absence of a Member in the Committee”. I would like to make it very clear. I am not casting any aspersion nor making any insinuation of the Government’s intent. I am not saying that. But the question is: Why, when the previous process did not have this, are you bringing it here? Why, as I have explained and the Leader has explained, has it become essential? This selection has been taking place when you were in Government, we were in Government and now you are again in the Government. There has never been any problem. There has never been a situation where one of the three Members has not been there. We are talking of a hypothetical situation that if the Lok Sabha is dissolved then what will happen. It is hypothetical. When you were in Government from 1996 and then again from 1998 to 2004, what was the provision? Was there any difficulty? We were in Opposition. The Leader of the Opposition was part of the selection process. Then, for ten years, we were in Government.

SHRI ARUN JAITLEY: Just a factual correction. Till now, CBI Director has only been appointed by the Government; the Opposition did not come in. So, ten years’ history is not there. The CBI Director, under Delhi Special Police Establishment Act, was only appointed by the Government of India. For the first time, the Select Committee recommended that this should be done by the collegium two years ago. Now, the Select Committee recommended two things. The Lokpal and the members must be appointed by a collegium. A separate collegium must appoint a CBI Director. It was at that stage a drafting oversight that in the Lokpal provision we put a clause that due to absence or vacancy, appointment will not be invalid but for the CBI collegium, this Clause was not put. Mr. Misra and I were both Members of the Committee. ...*(Interruptions)*...

SHRI SATISH CHANDRA MISRA (Uttar Pradesh): It was our fault.

SHRI ARUN JAITLEY: We were both involved in drafting and our friend Satyavrat Chaturvedi was the Chairperson. So, there is no ten-year history. For the first time, these two provisions came in. एक के साथ कह दिया कि कोई अगर absent होगा या vacancy होगी, तो invalidity नहीं होगी, दूसरे के साथ यह लिखना भूल गए। वह जो drafting error था, उसको अब करेक्ट किया जा रहा है। There is no motive or any other thing. Let me tell you, I can end this debate here and now for the benefit of all Members. As far as the present Government is concerned, we will make sure that in the

[Shri Arun Jaitley]

meeting, all three members are informed. The necessary courtesy of ascertaining their conveniences will be taken into consideration. Whatever names are in the zone of eligibility, will be shared with them in advance and we will try and see how the best man can then be appointed. So, please take this as my assurance to you because if we had any bad motive, none of you asked us. You are right. It is not a courtesy that we are showing to the Opposition. We want to strengthen the democratic system for all future generations. That is the intention. Therefore, when we are ourselves including your party Leader from the Lok Sabha, why should our intention be to fix a meeting in a manner that he is not present? Then we would rather not come with this law.

SHRI ANAND SHARMA: I think it is good that the Leader of the House has again referred to what the intent of the Government is. Just to put the record straight, before he said this, I said that I am neither casting an aspersion, nor an insinuation, nor questioning your intent. I never used these words that the Government will do this. There is an apprehension that why this is being inserted.

श्री अरुण जेटली : आपकी सरकार लाई लोकपाल, यह प्रावधान लोकपाल में क्यों डाला? लोकपाल में डाल दिया और इसमें डालना हम भूल गए। क्योंकि यह एक सहमति से बना था, जितने भी सदस्य यहां हैं, उनमें से कई सदस्य उस सेलेक्ट कमेटी में थे। मुझे लगता है कि हमसे एक ड्राफ्टिंग ओवरसाइट हुई है, मैं उस पर aspersion नहीं कर रहा हूँ, उसको करेक्ट कर लें। उसके पीछे कोई मोटिव देखें, तो उसमें कोई लाभ नहीं है।

श्री आनन्द शर्मा : देखिए, आपने लोकपाल का हवाला दिया, बिल्कुल सही है। मैं इससे इन्कार नहीं कर सकता, यह एक वास्तविकता है, लेकिन मैंने RTI का भी हवाला दिया है। आप उसको स्वयं स्वीकार करेंगे। अगर आप यह बात कहते हैं, कम से कम 2003 से 11 साल का इतिहास CVC का होता है। उसमें भी नेता प्रतिपक्ष रहा है और कभी भी कोई ऐसी स्थिति, किसी भी समय नहीं हुई, चाहे NHRC है, सेन्ट्रल विजिलेंस कमीशन है, आर.टी.आई. है, जहां पर नेता प्रतिपक्ष सेलेक्शन प्रोसेस का हिस्सा है या कभी कोई गैर-हाजिरी हुई हो। ऐसा न हमारी सरकार के समय हुआ है और न ही कभी आपके कार्यकाल में हुआ है। जो आपने किया, उस पर हमारी टिप्पणी, हमारी सोच आवश्यक है। आपकी एक राय हो सकती है। यह जरूरी नहीं कि सरकार की राय और प्रतिपक्ष की राय एक होगी। यह बड़ी महत्वपूर्ण संस्था है। इस संस्था की संवेदनशीलता को देखते हुए, यह आवश्यक है कि यह सदन पूरी तरह से आश्वस्त हो, ये जब भी चाहें सदन में, किसी भी तरह से आश्वासन दे सकते हैं कि इस सब-सेक्शन-2 के होते हुए, आप कैसी प्रक्रिया बनाएंगे, जिससे यह सुनिश्चित किया जा सके। यह तो है कि प्रधान मंत्री जी तो मौजूद होंगे, क्योंकि सरकार को निर्णय लेना है। प्रधान मंत्री मीटिंग की अध्यक्षता करेंगे और उसमें मुख्य न्यायाधीश होंगे। यह आश्वस्त कीजिए कि नेता विपक्ष होंगे। जो आपने कहा है, मैंने नेता सदन को बड़े गौर से सुना है, आपने कहा है कि यह होगा और सरकार इसको सुनिश्चित करेगी, लेकिन क्या इसको सुनिश्चित करने का सरकार का सदन में स्पष्ट आश्वासन है?

दूसरी बात, मैं अपनी स्पीच में फिर दोहराता हूँ कि कभी यह गलतफ़हमी न हो, क्योंकि कई लोगों को पृष्ठभूमि नहीं पता, कुछ लोग भूल जाते हैं, कल को मीडिया में भी इस पर दस तरह की टिप्पणियाँ होंगी - आजकल बड़ी अच्छी-अच्छी टिप्पणियाँ आ रही हैं ...(व्यवधान)...

श्री अरुण जेटली : उपसभापति जी, हमने सदन में कह दिया कि we will make sure that the Leader of the Opposition is there unless you prevent him from coming.

SHRI ANAND SHARMA: I have not said this. You are listening to me. And I am listening to you with respect. I did not say that. What I am saying is that before this discussion concludes, we would expect the Leader of the House to assure us on it. And before I conclude, I am again repeating one thing. This impression that the Government is being generous, magnanimous and giving something to the Opposition is wrong. It is the right of the Opposition. It is mandated. You could not have gone ahead with the selection process without a leader of the Opposition being on the selection panel. Thank you, Sir.

श्री शरद यादव (बिहार) : उपसभापति जी।

श्री उपसभापति : क्या है, बोलिए?

श्री शरद यादव : उपसभापति जी, मैं कहना चाहता हूँ कि यहाँ बेकार में ही समय बरबाद हो रहा है। दोनों तरफ की बात सुनने के बाद मुझे महसूस हुआ कि जब लीडर ऑफ अपोजिशन कह रहे हैं सभी ऐक्ट्स में ये सब चीजें हैं। ...(व्यवधान)...

श्री नरेश अग्रवाल : लीडर ऑफ दि हाउस हैं।

श्री शरद यादव : कोई बात नहीं, ये सुधार लेंगे। आनन्द शर्मा जी, मैं यह निवेदन करना चाहता हूँ ...(व्यवधान)...

श्री उपसभापति : आपका नाम बोलने वालों में लिखा हुआ है।

श्री शरद यादव : मेरी सुनिए, वहाँ बोलने वाले थोड़े कम हो जाएंगे। आप मेरी बात सुन लीजिए, मैं आपकी और और लोगों की सहायता के लिए खड़ा हुआ हूँ। जो बात उन्होंने कही और इनकी जो बात है, उसमें कोई फ़र्क नहीं है। मैं मानता हूँ कि जितने भी पुराने कोलेजियम हैं, उनमें ये सारे वर्ड्स हैं। आनन्द शर्मा जी और इन लोगों ने जब मुझे बताया था तो मुझे मालूम नहीं था कि सभी में इस तरह की हालत है, लेकिन जब यह समाज है, पुरानी चीजों में, पुराने कोलेजियम में ये सब है, तब इसमें भी है, तो इसकी कोई बात नहीं है। इसके बाद आनन्द शर्मा जी ने इस पर सहमति दी, अतः आपको सदन को एश्योर करना चाहिए। मुख्य बात यह है कि लंबी बहस चलाने का क्या मतलब है? ...(व्यवधान)...

श्री सतीश चन्द्र मिश्रा : उन्होंने एश्योर कर दिया है। ...(व्यवधान)...

श्री शरद यादव : मैं कह रहा हूँ कि फिर से कर दें। ...(व्यवधान)...

श्री सतीश चन्द्र मिश्रा : कितनी बार करें? ...*(व्यवधान)*...

श्री नरेश अग्रवाल : हम लोग बोलेंगे, हम लोग बोलेंगे क्यों नहीं? ...*(व्यवधान)*... इससे तो ऐसा लग रहा है कि बीजेपी-कांग्रेस की * है ...*(व्यवधान)*... दोनों मिलकर * कर रहे हैं। ...*(व्यवधान)*...

श्री शरद यादव : बोलिए, लेकिन मुझे इसमें दम नहीं लग रहा है। ...*(व्यवधान)*...

SHRI SATISH CHANDRA MISRA: Sir, all these issues were discussed threadbare, लीडर ऑफ दि हाउस ने कहा it was a mistake at the time of drafting. All the Acts have this provision. We are having unnecessary discussion on this. The Prime Minister of India and the Chief Justice of India are there on this. When the Chief Justice of India will be sitting there, he will ask about the leader of the largest party. In fact, it is in their interest. I am surprised because it is in the interest of the largest party. They are being included. If they don't include them, then they can say that ...*(Interruptions)*...

SHRI ANAND SHARMA: Can we be excluded? We are the principal opposition party. We cannot be excluded.

SHRI SATISH CHANDRA MISRA: You cannot be excluded. You are not being excluded. ...*(Interruptions)*... We are unnecessarily doing this. ...*(Interruptions)*... I don't know why.

THE MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD): Not necessarily in his interest. It is for Satishji also. One day this provision can be in the interest of Ram Gopalji also. Not necessarily in their interest.

SHRI P. RAJEEVE: One day this provision can be in your interest also.

श्री अजय संचेती (महाराष्ट्र) : आरदणीय उपसभापति जी, the Delhi Special Police Establishment (Amendment) Bill, 1964 में सरकार ने ये जो अमेंडमेंट्स प्रस्तुत किए हैं ...*(व्यवधान)*...

श्री शरद यादव : संचेती जी, आप क्यों बोल रहे हैं? कोई मतलब नहीं है इस बहस का। आप समय खराब कर रहे हैं।

श्री अजय संचेती : सर, यदि आप नहीं कहेंगे तो नहीं बोलेंगे।

MR. DEPUTY CHAIRMAN: Tyagiji and Achuthanji. ...*(Interruptions)*... Make the speeches brief.

* Expunged as ordered by the Chair.

श्री अजय संचेती : उपसभापति जी, हाउस का मूड देखते हुए लीडर ऑफ दि हाउस और कांग्रेस पार्टी के नेता ने जो कहा है, उसको ध्यान में रखते हुए मैं इसको बीस परसेंट में ही खत्म कर देता हूँ। लोक सभा में लीडर ऑफ अपोजिशन रिकाग्नाईज्ड नहीं होने के कारण यह स्थिति आई है। present circumstances में ये अमेंडमेंट्स आए हैं। अब यह वहां क्यों नहीं है, यह यहां पर बहस का कोई विषय नहीं है। जो है, वह है और जो नहीं, वह नहीं है। उसके बावजूद जैसा कि सीनियर पार्लियामेंटेरियन शर्मा साहब ने कहा कि यह कोई एहसान नहीं है, तो इसमें एहसान की बात नहीं है। लीडर ऑफ द हाउस ने बड़ा कैटेगरीकली कहा है कि सी.बी.आई. जैसी संवैधानिक संस्था को मजबूत करने के लिए, भविष्य में उसका उपयोग-दुरुपयोग न हो, वह अपने ढंग से ठीक चले, इसलिए विपक्ष के लोगों को साथ में लेकर उन लोगों का चुनाव किया जाए। इसलिए ये अमेंडमेंट्स यहां पर लाए गए हैं।

मैं अपनी बात को खत्म करते हुए सिर्फ इतना ही कहूंगा कि सारा विपक्ष और यहां जितने भी लोग बैठे हुए हैं, वे इस बिल के जितने भी अमेंडमेंट्स हैं, उनको समर्थन देकर इसे पास करें। धन्यवाद।

MR. DEPUTY CHAIRMAN: Very good. It is the best speech. Brief, pointed and focussed. Now, Shri Naresh Agrawal. You can follow that good example.

SHRI NARESH AGRAWAL: Sir, I will follow you.

MR. DEPUTY CHAIRMAN: Then, you will be in trouble.

श्री नरेश अग्रवाल (उत्तर प्रदेश) : माननीय उपसभापति जी, मेरे ख्याल में लीडर ऑफ द हाउस ने बहुत कुछ चीजें क्लियर कर दी हैं। स्टेट में भी यही परम्परा है। स्टेट में भी कहीं यह नहीं लिखा। हम लोग राज्यों को लोकायुक्त वगैरह नियुक्त करते हैं। मैं देख रहा हूँ कि भाजपा और कांग्रेस मिल कर कहीं-न-कहीं * हो रही है। जिस कांग्रेस को जनता ने रूट आउट कर दिया, आप उसको जिंदा करके हम लोगों को रूट आउट करने का मूड बना रहे हैं। मुझे आपकी ऐसी कोई * दिखाई दे रही है। इसीलिए अननेसेरली कहीं-न-कहीं पर ये बातें हो रही हैं। आप इतना एश्योर कर दीजिए कि ...(व्यवधान)... आप अखबार में नोटिफिकेशन निकाल दीजिए, जिससे कहने को न हो जाए कि लीडर ऑफ अपोजिशन को गवर्नमेंट ने इंफॉर्म नहीं किया। आप कम-से-कम इतना एश्योर कर दीजिए।

श्री अरुण जेटली : लीडर ऑफ द लार्जस्ट पार्टी।

श्री नरेश अग्रवाल : ठीक है, लीडर ऑफ द लार्जस्ट पार्टी। मुझे उम्मीद है कि हमारे भाई राजीव जी और बालगोपाल जी अपने अमेंडमेंट्स पर बहुत प्रेस भी नहीं करेंगे, लेकिन हम कुछ चीजें कहना चाहते हैं। मैं देख रहा हूँ कि सरकार बने 6 महीने हो गए, आपने जितने भी डिजीजंस लिए हैं, सब पिछली सरकार के लिए हैं। आपने खुद भाषण में कहा, मैं आपकी बजट स्पीच सुन रहा था, यह उस सरकार का लाया हुआ है, यह उस सरकार का लाया हुआ है, तो क्या उस सरकार ने जितने पाप किए, वे सब आप करेंगे? इन्होंने सी.बी.आई. का पॉलिटिकल मिसयूज

* Expunged as ordered by the Chair.

[श्री नरेश अग्रवाल]

किया, मेरा बहुत साफ एलिगेशन है। आज पूरे देश में यह बात है कि सी.बी.आई. पहले कांग्रेस ब्यूरो ऑफ इन्वेस्टिगेशन थी, जो नाम आप लोगों ने दिया था, हम लोग भी यही नाम देते थे। अब हम उसका नाम बदल देंगे, कहीं-न-कहीं आपको जोड़ कर इसका नाम रख देंगे। आप इस सदन में यह गारंटी दीजिए। पहले यह व्यवस्था थी कि राज्यों की बिना अनुमति के सी.बी.आई. राज्य में जांच नहीं करेगी। माननीय सर्वोच्च न्यायालय का जजमेंट हुआ। जजमेंट के बाद ऐसा हो गया, जैसे राज्य सरकारें असहाय हो गईं। हाई कोर्ट से आदेश हो गया। अब तो ऐसा लगने लगा कि राज्यों की पुलिस पक्षपात कर रही है, राज्यों की पुलिस इनकंपीटेंट है। जब हमारा वही अधिकारी सी.बी.आई. में आता है, तब तो वह कंपीटेंट हो जाता है और जब वह राज्य में रहता है, तो इनकंपीटेंट हो जाता है। आप बताइए कि आखिर इस व्यवस्था को आप कैसे बदलेंगे? एक मेसेज जा रहा है, मैं किसी पॉलिटिकल पार्टी का नाम नहीं लूंगा और अभी सी.बी.आई. ने कोल वाले केस में सुप्रीम कोर्ट में जो रोल भी प्ले किया, पहले उन्होंने लिख दिया कि इनकी कोई जरूरत नहीं है, ये लोग पाक-साफ हैं, फिर एकदम यू-टर्न ले लिया कि ये पाक-साफ नहीं हैं, अब हम इनके खिलाफ चार्जशीट ला रहे हैं। मैं पढ़ रहा था कि एयरटेल के मालिक और बिड़ला जी सुप्रीम कोर्ट गए हैं। एकदम यह जो व्यवस्था हो रही है और डायरेक्टर, सी.बी.आई. पर भी जिस तरीके से आरोप लगे, क्या आप सदन को एश्योर करेंगे? जब हम कॉलेजियम सिस्टम ला सकते हैं, तो लॉ मिनिस्टर क्यों नहीं यह सिस्टम ला सकते हैं कि राज्य सरकार की स्वीकृति लेना अनिवार्य है? कौन पार्टी इसका विरोध करेगी? हम रीजनल पार्टी हैं, हमारी सरकार है। आज तो सी.बी.आई. ने जो किया, उसे पढ़ कर मुझे हंसी आती है कि मिर्जापुर में मिट्टी के तेल के ड्रमों पर सी.बी.आई. का छापा, राशन की दुकान पर सी.बी.आई. का छापा, क्योंकि यह सेंट्रल गवर्नमेंट की स्कीम है। आपने दिल्ली स्पेशल पुलिस इस्टैब्लिशमेंट एक्ट में यह व्यवस्था दे दी कि सेंट्रल गवर्नमेंट का जो भी पैसा जहां भी खर्च हो रहा है, उसकी जांच करने का अधिकार सी.बी.आई. को होगा। यही हो रहा है, आप क्या बात कर रहे हैं? मिर्जापुर में मिट्टी के तेल के डिपो पर उन्होंने छापा मारा, फिर राशन के कोठे की दुकान पर सी.बी.आई. का छापा पड़ा।

श्रीमन्, क्या सी.बी.आई. का काम यही रह गया है? अगर सुप्रीम कोर्ट ने यह भी कर दिया है, तो आप पुलिस एक्ट में संशोधन ले आइए कि सी.बी.आई. जहां जाएगी, वहां दिल्ली पुलिस, राज्य की पुलिस के सहयोग के बिना कोई काम नहीं करेगी, यह तो आप कर ही सकते हैं। इसमें सुप्रीम कोर्ट की जजमेंट का कौन सा विरोध हो रहा है या हम उनकी कौन सी अवहेलना कर रहे हैं। मैं यही चाहूंगा, क्योंकि आज जो स्थिति बनी है, आप कहीं न कहीं इस स्थिति को संभालिए। अगर पुलिस के माध्यम से पॉलिटिकल गेम हुई, अगर सिस्टम के सब लोगों को पुलिस का भय दिखाया गया, तो यह प्रजातंत्र के लिए बहुत अच्छी चीज़ नहीं होगी।

मैं बहुत सारी चीज़ों को कहना नहीं चाहता हूँ, लेकिन मैं आपसे पूछना चाहता हूँ कि आज देश में जो हो रहा है, क्या आप उससे संतुष्ट हैं? जिस तरीके से डेमोक्रेसी को कमजोर किया जा रहा है, जिस तरीके से सरकारों को कमजोर किया जा रहा है, सरकारें असहाय दिख रही हैं, अगर वही स्थिति बनी रही, तो यह देश के लिए बहुत अच्छा नहीं होगा। सरकार डेमोक्रेसी से चलती है। पिछली बार जब रवि भाई बिल पेश कर रहे थे, तब भी मैंने यह बात कही थी कि

पी.आई.एल. के माध्यम से जो हो रहा है, क्या वह बहुत अच्छा काम हो रहा है? अगर सड़क में नाली का पानी जा रहा है, तो पी.आई.एल. पड़ जाएगी, अगर मोहल्ले में मच्छर हैं, तो पी.आई.एल. पड़ जाएगी, अगर स्टैंड पर रिक्शा खड़ा हो गया है, तो पी.आई.एल. पड़ जाएगी। सरकारें किसलिए हैं?

हम काम करते हैं, क्योंकि अगर अच्छा काम करेंगे, तो जनता हमको चुनेगी और अगर गलत काम करेंगे, तो जनता हमको नहीं चुनेगी। मैं आपसे एक बात कहूंगा, आप बहुत बड़े वकील हैं, वित्त मंत्री हैं, सरकार के स्तम्भ हैं, अगर इस समय आपने निर्णय नहीं लिया, तो इससे बड़ा मेंडेट आपको दोबारा नहीं मिलेगा, अपने दिमाग से आप यह गलतफहमी निकाल दीजिए। पूरे देश ने आपको जो मेंडेट दिया, पब्लिक ने आपको यह मेंडेट इसलिए दिया कि **be bold**, आप बोल्ट होकर डिस्मिशन लीजिए, ताकि लगे कि इस देश में सरकारें काम कर रही हैं। भविष्य में यह संदेश न जाए कि सी.बी.आई. या अन्य किसी माध्यम से राजनैतिक दलों को या राजनैतिक लोगों को परेशान किया जा रहा है। आज बंगाल में जो आरोप लगाए जा रहे हैं, जो हो रहा है, उसे मैं रोज पढ़ रहा हूँ। मैं आपसे सिर्फ इतना ही कहना चाहता हूँ कि इन चीजों से हम लोगों को बचना चाहिए। धन्यवाद।

MR. DEPUTY CHAIRMAN : Thank you, Naresh Agrawalji. Shri Sukhendu Sekhar Roy.

श्री सुखेन्दु शेखर राय (पश्चिमी बंगाल) : थैंक यू सर, यह जो बिल लाया गया है, इसमें बताया गया है कि leader of the largest Party कोलीजियम में रहेगा। आइडिल सिचुएशन तो वह होती, अगर यह प्रावधान रखा जाता कि if there is no Leader of the Opposition as such in the House of the People, then, the Leader of the Opposition in the Council of States should represent in the collegium. यह बेहतर होता और आइडिल सिचुएशन होती। Why should Rajya Sabha be ignored all the time? The Prime Minister is the Leader of the House in the Lok Sabha normally. हालांकि पिछले दस साल से यह नहीं हुआ, लेकिन आजादी के बाद से प्राइम मिनिस्टर ज्यादातर लोक सभा के लीडर ऑफ द हाउस ही रहे हैं। अब लोक सभा में विरोधी दल के नेता या अगर विरोधी दल के नेता उपस्थित नहीं रहते हैं, तो largest party के नेता, ये दो व्यक्ति ही जाएंगे, लेकिन राज्य सभा का उसमें रिप्रेजेंटेशन नहीं होगा। मेरे ख्याल से ये कमियां हैं और हमें देखना चाहिए इन कमियां को कैसे दूर किया जाए। सरकार को आने वाले दिनों इस बारे में सोचना होगा।

मैं इस बिल का विरोध नहीं कर रहा हूँ। जब इसमें सभी का समर्थन है, तो मैं भी इसका समर्थन करने के लिए तैयार हूँ। मुझे कोई एतराज नहीं है, लेकिन नरेश जी ने जो लार्जर इश्यू उठाया, उस पर भी सरकार को ध्यान देना होगा।

मुझे एक बात याद आ रही है। श्री अरुण जेटली जी, केवल हमारे देश की ही नहीं बल्कि विश्व की एक मानी हुई कानूनी हस्ती हैं और वे हमारे सदन के लीडर ऑफ द हाउस भी हैं। मुझे याद आ रहा है, उन्होंने डॉ. मनमोहन सिंह जी को एक चिट्ठी लिखी थी, जब गुजरात के भूतपूर्व

[श्री सुखेन्दु शेखर राय]

मुख्य मंत्री और गुजरात के ही दूसरे मंत्रियों को सी.बी.आई. ने सम्मन किया था। उस समय उनसे पूछताछ की जा रही थी, कार्यवाही चल रही थी, तब अरुण जेटली जी ने प्रधान मंत्री जी को एक चिट्ठी लिखी थी और उन्होंने यह इल्जाम खास तौर पर लगाया था कि, in spite of the fact that there is no 'prosecutable evidence' – I am quoting these two words from his letter – against the hon. Chief Minister and the Transport Minister or some other Minister, the CBI has taken steps with a political motivation. This is equally true in case of Shri Srinjoy Bose, hon. Member of this House belonging to my party. He was summoned as a witness to give evidence. His name is not in the chargesheet. After summoning him as witness, the CBI has arrested him not under the instructions of the Government. I am not saying so because the CBI is working under the instructions of the Supreme Court. But, who will 'police the police'? This is the question. सी.बी.आई. को महान बना रहे हैं। अभी कोई बता रहे थे, शायद अजय जी अभी बोले कि यह constitutional authority है। CBI is not a constitutional authority. Even its statutory background, legal sanction had been challenged in the Guwahati High Court and the Guwahati High Court ruled that the CBI does not have any legal sanction, and the matter is now pending before the Supreme Court. Why is the Government not coming up with a separate legislation for this organization? Why is it under the umbrella of 1946 Act even after a Division Bench of a High Court has ruled that there is no legal sanctity behind it? The way the CBI is being used day in and day out as a part of political vendetta against the Opposition, it is a shame on the part of the organization. For two or three people, the organization should not be defamed. The Director has been described by the hon. Supreme Court as a 'caged parrot'. One or two high level officials meet the accused day in and day out at his residence और वह सीना ठोक कर बोल रहा है कि जो कुछ मैंने किया, वह मैंने ऑफिशियल ज्यूटी की। देश में यह क्या हो रहा है? इस सी.बी.आई. को नियंत्रित करना है। इसे नियंत्रित इसलिए नहीं करना है कि तुम विरोधियों का कंठ रोध करो, बल्कि इसको इसलिए नियंत्रित करना है कि तुम कानूनी रास्ते पर चलो, ताकि जो अपराधी है, उसको पकड़ा जाए और उसके खिलाफ कार्यवाही शुरू की जाए।

सर, मैं सरकार से निवेदन करना चाहता हूँ कि आप इस पर ध्यान दीजिए। जिस तरह से हमारे मेम्बर को आज ग्रिल किया जा रहा है, कल आपके ऊपर भी यह हो सकता है, जब आप सत्ता में नहीं रहेंगे। यहां कोई परमानेंट नहीं है। आप पांच साल के लिए आए हैं। कोई नहीं बोल सकता कि अगले पांच साल में फिर आप वापस आएंगे या नहीं। यह जनता तय करेगी। Therefore, Sir, my humble submission is that this Amendment Bill can be taken up and passed by the hon. Members. I request the hon. Members to pass this Amendment. But,

I would request the Government once again to look into the entire episode, the functioning of the CBI, particularly, keeping in mind the instructions of the hon. Supreme Court in Vineet Narain case. How much autonomy should be given to the CBI? Whether the CBI should be under the control of the Personnel Department of the Central Government or the CBI will work independently under the monitoring of the Central Vigilance Commission or some other mechanism should be evolved, that is what the Government has to consider. This is my humble submission. Thank you, Sir.

MR. DEPUTY CHAIRMAN: Thank you, Mr. Roy.

श्री शरद यादव : सर, मुझे कुछ नहीं बोलना है। सारी बातें हो गई हैं, मुझे कोई बात नहीं बोलनी है। आपका बहुत-बहुत धन्यवाद।

MR. DEPUTY CHAIRMAN: Thank you very much.

SHRI SATISH CHANDRA MISRA (Uttar Pradesh): I have already spoken about this amendment. We are not on the other issue. Whenever that issue is taken up, we will definitely vent our views on that about the CBI's role, about the CBI's functioning. But, today, we are on the limited issue, whether this amendment is necessary and this should be passed or not. This is required to be done and I have already submitted that this is, in fact, definitely required and we are in support of this Bill because this is a provision which is in existence in every other Act including the Lokpal Act which was drafted by the Committee, whose Chairman was Shri Satyavrat Chaturvedi from the Congress Party. And, somehow or the other, while putting that amendment, as the Leader of the House has rightly said, this was slipped from the Select Committee, of which Shri Ram Gopal Yadav was also a Member. Other Members of the House were also there. This has to be put there. It was necessary. Now it has been brought. I think once the Leader of the House has assured this House that he will ensure that when the three members are present, the meeting would be held, I don't think there should be any apprehension in our minds that if this amendment is incorporated, it will create certain problems. Therefore, my Party supports this Amendment Bill. Thank you.

SHRI K.N. BALAGOPAL (Kerala): Sir, so far as this Amendment Bill is concerned, we feel that this is because of the attitude of the Government that such a situation has been created. I have given an amendment to the Bill, which says, "That at page 1, line 12, *after* the words "absence of a Member" the words "in two consecutive meetings with proper notice" be *inserted*." Now, Clause 2 (b) (2) of the Bill says, "No appointment of a Director shall be invalid merely by reason of any vacancy or absence of a Member in the Committee." Why am I saying this? The Finance Minister has discussed about the

[Shri K.N. Balagopal]

need of this particular amendment. He talked about the Central Vigilance Commission, the Lokpal Act and other Acts. This has happened because the Government was not ready to accept the Leader of the Opposition. I am not going into the details. There are three members, the Chief Justice of the Supreme Court is there, the Prime Minister is there and third one is the Leader of the Opposition. If the Leader of the Opposition is not there, then the leader of the largest group. If a proper notice is not given and there is an absence, that cannot be done. On the other hand, if you are deleting the clause, then, purposefully, the Leader of the Opposition or the leader of the largest group may not come. He can stop or sabotage the thing. That is to be corrected. That is why we are saying, if proper notice is given to the person, and if after two consecutive meetings the absence is there, then that cannot affect the appointment. This is the issue. Why is there such an apprehension in our mind? The first question is about the Leader of the Opposition. There are other issues also. Normally, a delegation of Members of Parliament goes to the United Nations every year. I have heard that this time there is no delegation going to the United Nations. I have heard about it. I have heard the speech of late Shri V.K. Krishna Menon regarding the question of plebiscite in Kashmir. The Members of Parliament used to go to the United Nations General Assembly. Now the Government is, step by step, stopping all these things. This shows the democratic functioning of the Government. That is why we feel that this Bill should be amended like this. As many hon. Members have mentioned here, much needs to be discussed about the functioning of the CBI. The CBI is an instrument in the hands of the Government. Whichever party's Government is in power, they are using it as their weapon. There are many such cases. The latest one is related to the 2G case. A lot of corruption cases are coming up. So, the autonomy and independence of the CBI has to be discussed very seriously. Shri Arun Jaitley, as a Member of the Lokpal Committee, used to discuss about the autonomy, judgements, etc. He used to argue about the financial as well as administrative autonomy of the CBI. I hope the Government will do something to make this agency an autonomous body. Now the CBI is acting as an instrument in the hands of the Government for political vendetta. And that is to be discussed very seriously in the future. So, this Amendment is for helping the Government as well as the Opposition. But I want to amend it as, "It is for helping the Government as well as the Opposition ensuring the attendance of the leader of the largest group in the Opposition." I request that this may be accepted.

SHRI A.U. SINGH DEO (Odisha): Sir, much has been discussed regarding this particular Amendment and many of the things are very clear. It is the first Amendment being brought by the Government – the Government should be thanked for bringing the

Amendment – without any pressure from the Opposition on the other side, and that is, absolutely, what is most desirable.

As regards clause 2, the hon. Minister has, particularly, clarified the issue. However, I have some doubts in my mind. Are we comparing apples with oranges? The NHRC, the CVC, etc. are all independent bodies. But the CBI, as yet, cannot be considered as an independent body because it is under the Delhi Police Establishment Act which is directly under the Government and is directly under the Prime Minister. So, when we compare the provisions of NHRC and others with the CBI through the Amendment of the Delhi Police Establishment Act, I think, we again need to look into it carefully so that the CBI functions autonomously and well. Sir, I have one point which I have been discussing with my hon. colleagues here. Sir, sub-clause 2 of clause 2 says, “No appointment of a Director shall be invalid merely by reason of any vacancy or absence or a Member in the Committee.” Will the hon. Minister remove the word ‘absence’? Once he considers and removes the word ‘absence’, this debate will come to an end because there will never be a vacancy in this particular collegium. The question of absence doesn’t arise. If a person attends, well and so good. And even if a person doesn’t attend, well and so good. It is because if you remove the word ‘absence’, the matter gets solved. I wish Mr. Jaitley was here listening to it. But I would like to have a little clarification because it is just a simple matter of English. “No appointment of a Director shall be invalid merely by reason of any vacancy or absence of a member in the Committee.” If you remove the word ‘absence’, then, there will never be a vacancy and there will never be a question arising as the one that has arisen between the Opposition and the Government at a point of time. So, I would seriously request the hon. Minister, Shri Jaitley, to consider this. I have also been talking to my very, very senior colleagues here who are eminent lawyers and they feel the same way that I do. I hope this will be taken into consideration.

Sir, I wish to mention one small fact, which Mr. Naresh Agrawal also raised. It is really astounding the way the CBI has moved into various States, particularly, Odisha and West Bengal now. It may be due to a direction from the hon. Supreme Court. But the State has come to a standstill. There is, absolutely, no development there. There is, absolutely, an environment of terror. This has to be really looked into because, as Nareshji said, when hon. Members here, who are in the Government today, termed the CBI as Congress Bureau of Investigation, today, they are here and they would get the same nomenclature if the CBI’s affairs are not properly looked into. The other matter, Sir, is: How is the CBI superior to the police officers in the State? When the police officers of a particular State come and man the CBI in the Central Government, they become honest and upright officers. When they go back to the State they become incompetent. So what

[Shri A.U. Singh Deo]

is this business about the CBI coming to situations where there is a demand in the State for a CBI inquiry because the concerned Government is not doing their job? Then the CBI comes in. Sir, my point here is, there has to be some kind of thought in this particular issue and we must have some essence of control and atmosphere in this matter. Thank you.

SHRI MAJEED MEMON (Maharashtra): Hon. Mr. Deputy Chairman, I am sorry that Shri Arun Jaitley has left the House.

MR. DEPUTY CHAIRMAN: He will come back.

SHRI MAJEED MEMON: Although I wanted to compliment him for presenting his case in a very effective manner as he ordinarily does in the court, I want to make a slight correction and my friend, Shri Ravi Shankar Prasad, is here, at least, he will make a note of it. The Statement made by the hon. Finance Minister is that when similar provisions are existing in the Lokpal Bill, what could be the difficulty in having it here? This is not a wholly correct Statement. I would read what is mentioned in the Lokpal Bill with a comparison to the proposed amendment that is being sought. My friend and I were discussing ten minutes earlier and I pointed out to him that if the amendment is sought now, then no appointment of a Director shall be invalid merely by reason of any vacancy or absence. These are two different situations. Vacancy is one situation, absence is another situation. Now, we have to examine vacancy independent of the absence. There is 'no vacancy' and yet absence, and the apprehension of the other side, the Opposition, – we are also included – is that the absence or vacancy is not hinted to that of Prime Minister or Chief Justice, but the Leader of Opposition or the Leader of the single largest party. Therefore, this apprehension would be well founded for this reason that we say that let a vacancy be there but let there be no absence, as my friend put it. I want to point out to Ravi Shankarji – Jaitleyji is here – you were saying that the identical provisions are there in the Lokpal Bill. It is not correct. Let me read what Lokpal says, "No appointment of a Chairperson or a Member shall be invalid merely by reasons of any vacancy in the selection committee." That's all. Vacancy is a different position. Absence is a different position or absence includes a whole lot of new situation that well absence could be deliberately sought as the apprehension is. Of course, the assurance is forthcoming but that assurance would not become a law. What we would request the hon. Leader of the House that please don't equate it with what is existing. Everybody conceded because while it is existing in other similar provision, we have no difficulty. But if you can delete the word 'or absence' I think we shall have no difficulty on that.

SHRI ARUN JAITLEY: Since you have raised it, let me answer it. That means instead of collegium, we give a veto to one Member. Any of the three can say, 'I don't attend the meeting, so no decision can be taken.' The effect of what you are saying is that absence should invalidate means a person can abstain himself and invalidate the decision. Is it logical?

SHRI MAJEED MEMON: But then why do you say vacancy....

SHRI ARUN JAITLEY: Probably, those draftspersons thought that vacancy may be broadly construed to include that.

श्री माजीद मेमन : आपने यह लोकपाल में क्यों नहीं रखा? लोकपाल में वह चलेगा जो आप कह रहे हैं।

SHRI ARUN JAITLEY: Drafting errors are not alone.

श्री माजीद मेमन : लोकपाल में जो आपने सुविधा रखी है,

श्री अरुण जेटली : हम जो कह रहे हैं "एबसेंस" अगर इनवेलिडेड कर सकता है डिस्मिशन को तो तीन में से, अब यह राज्यों में भी बनेगा, लोकायुक्त में बनेगा, तो किसी एक राज्य में लीडर ऑफ अपॉजिशन कह दे कि मैं मीटिंग में जाऊंगा ही नहीं, और जब तक मैं जाऊंगा ही नहीं तो मीटिंग हो ही नहीं सकती, अब डिस्मिशन इनवेलिड होगा We cannot create such a situation.

श्री माजीद मेमन : एक सिचुएशन वेकेंसी की अलग होती है, एक सिचुएशन "एबसेंस" की अलग होती है। There can't be a vacancy of Chief Justice of India because there is bound to be an acting Chief Justice of India. There won't be a vacancy ordinarily of the Prime Minister. There may be some acting Prime Minister. It is only hinted at the Leader of Opposition. तीसरा स्तम्भ जो है लेजिस्लेचर को जब वह रिप्रजेंट करता है, उसकी तरफ इशारा है इसलिए एप्रिहेंशन है। अगर आप कोई ऐसा रास्ता बीच में निकाल रहे हैं, वह जान बूझकर नहीं आना चाहता वह गलत है, वह नहीं होना चाहिए। लेकिन अगर आप कोई ऐसा रास्ता निकालते हैं कि आप लीडर ऑफ दि अपॉजिशन, लीडर ऑफ दि सिंगल लॉर्जेस्ट पार्टी को बाकायदा इंफॉर्म अगर नहीं करेंगे तो उस सूरत में वह इनवेलिडेड नहीं होगा।

SHRI D. RAJA (Tamil Nadu): Sir, I have only two points.

During the debate on Lokpal we had enough discussion on the CBI. Sir, CBI is the premier investigative agency of the country. The credibility, neutrality and objectivity of this organisation are very important. With all said and done, political parties, State Governments and even individual citizens and groups demand CBI investigation on

[Shri D. Raja]

certain issues and cases. So, the credibility of the CBI has to be protected. What is the independence that we give to the CBI? We have to see whether it is absolute independence, whom is it going to be accountable/answerable are the larger issues we have to address in the coming days, if not now. Some of my colleagues are telling me that CBI is no more CBI, it is now BBI. I asked, 'What is that? I don't understand.' Earlier it used to be known as 'Congress Bureau of Investigation.' Now, it will be known as 'BJP Bureau of Investigation.' I don't subscribe to that idea. But, what I am trying to tell this House is that this cynical view will undermine the credibility of the CBI and the people should have respect in the CBI, because, in the past, CBI was used for political purposes. The CBI was misused and abused for political purposes. I can blame both. When you were in power, you may have the tendency to use CBI for political purpose. When Congress was in power they were accused of using CBI for political purposes. So, we have to see how to restore the independence and credibility of the CBI. That is important. The House will have to address this.

The second point is about recognition of the opposition. Sir, we are a Parliamentary democracy. It is a multi-party democracy. Yesterday – 26th November, 1949 – was the day when the Constituency Assembly adopted the Constitution and on that day the speech made by Dr. Ambedkar was a classic and historic one. And, the framers of the Constitution – Dr. Ambedkar and other galaxy of leaders – did not opt for a two-party system or the Presidential form of Government. They opted for Parliamentary democracy which is a multi-party democracy. Here, the question of opposition will have to be address with all fairness. Yes; there is law for recognized opposition or to address opposition as recognized one. But, it is not mere legal or technical issue; it is a political issue. In a multi-party democracy, the Government will have to accommodate opposition in certain areas of functioning and decision-making. That is what I understand the purpose of this Bill. It is to give adequate/due space to the opposition in certain policy-making of the Government. Here, as my colleague, Shri Satish Chandra Misra, emphasized that if the Leader of the House, hon. Finance Minister, Mr. Jaitley, one of the pillars of the Government, gives that assurance and see that collegium functions effectively without creating any constitutional or legal crisis. If that assurance goes as a part of this Bill, then this Bill can be considered. Thank you.

SHRI SHANTARAM NAIK (Goa): Sir, I had the privilege of being a Member of both, the Select Committee and the Standing Committee. I have undergone that 'honourable torture' of attending both Committees. Though I am saying 'honourable torture', in fact, it was a proud privilege. I will speak on only one or two broader issues.

MR. DEPUTY CHAIRMAN: How can there be honourable torture? ...*(Interruptions)*... This I am suffering sometimes. That is something which I am suffering from, sometimes.

SHRI SHANTARAM NAIK: Sir, the CBI was constituted by a very, very old Act and an equally old Resolution. That is how it is going on for all these years. The Leader of the Opposition then was reminding us time and again that we were misusing the CBI. He said, "We want an independent CBI, let us have an independent CBI. Why are you misusing the CBI?" Time and again he reminded us, practically every month. Now, I am asking him. Six months have passed. Why have you not made a single move to have an independent legislation to govern the CBI, as per his ideology, as per his aspirations? Why are you not releasing the parrot, which the court has said. We have not said it, the court has said that the CBI is in a cage, is a parrot. So, make some efforts to release that parrot which you have also indirectly hinted at.

Secondly, I would like to mention one aspect. If you are really intending not to avoid the Leader of the single largest party attending, then you will ensure that he remains present; you will be trying your best to contact him. Maybe, sometimes, you say, 'Our office tried to contact him, but he was not available at that time', etc. Why not provide for, in this legislation, a minimum seven days' notice to be given to each Member? After that you may make your other efforts to contact the members to ensure their presence. Why don't you do this? It could be a reasonable notice or seven days' notice.

Nextly, which are the aspects that are coming in the way of making the CBI independent? Have you made any exhaustive study of this? In fact, I know that the CBI itself had drafted a Bill and it had internally circulated it. You must be having a copy of the legislation which provides, perhaps according to them, an independent CBI machinery. Why don't you examine that machinery and see to it that an independent CBI comes into being? What is the concept that you have? You were charging us when Mr. Ashwani Kumar was there; you were charging us on several counts. When Mr. Pawan Kumar Bansal's case came, you charged the CBI and everybody. You said that the CBI was not independent. You said, "Who allowed them to show the FIR to the Ministers? How could the CBI Director go with the file to meet a Minister?" What is your position regarding the FIR today? Can the FIR registered with a police station or with the CBI be shown to a Minister or to a Chief Minister or to the Prime Minister? What is your view on that? Because, that shows the independence. If you really want to have an independent CBI, you must first ensure independence of FIR. How far that independence of FIR exists today? What is your concept regarding the independence of FIRs? Otherwise, if you read the

[Shri Shantaram Naik]

Cr.P.C. provisions, an investigation officer of the concerned police station is the supreme authority as far as FIR is concerned. Are you following that? Is anybody following that? Are you following it in the last six months? Have you followed it in the case of West Bengal? Have you followed it in other cases? I am not mentioning those cases. How far are you giving independence to the CBI presently? See, the question is, when you are making new appointments now, what is the procedure that you are following, we don't know. But if you prove to the nation that he will be an independent person and you will not be exercising your political influence anywhere, then I can understand. ...*(Time-bell rings)*... Just one minute, Sir. Sir, I can say with full responsibility that today, no authority in the country has got any independence. Ask yourself, how much independence the Cabinet Ministers in the country have. In each Cabinet Ministry one person has been deputed and the officers have been told that even if the Minister gives them instructions, the instructions have to go to the Cabinet Secretariat and they need not worry about the answer or reaction of the Minister. These are the instructions given. Therefore, when you cannot protect your offices, how will you protect the CBI? Thank you very much.

MR. DEPUTY CHAIRMAN: Please conclude. Thank you very much. Now, see, I have 3-4 names which have been received after the discussion started. This being an important Bill, I think I can call them, but stick to 3 to 4 minutes, not more than that. Now, it is 6.00 p.m. I hope the House agrees that we will sit until we pass the Bill. Thank you. Now, Shri Navaneethakrishnan.

SHRI A. NAVANEETHAKRISHNAN (Tamil Nadu): Hon. Deputy Chairman, Sir, I welcome and support this Delhi Special Police Establishment (Amendment) Bill, 2014. The proposed Amendments are really reflecting the true democratic spirit. Even an independent CBI also must be amendable to judicial review. I request this hon. House to pass this Bill. Thank you.

MR. DEPUTY CHAIRMAN: Thank you very much. The best speech. That was an excellent speech. Now, Shri Tiruchi Siva.

SHRI TIRUCHI SIVA (Tamil Nadu): Sir, I rise to welcome this Bill. This Bill has been brought so that an unforeseen or a rare situation should not scuttle the appointment to a very sensitive position like the Director of the CBI. Sir, the Lok Pal Select Committee, of which I was also a member, discussed and changed the appointment of the Director of the CBI from the Government to the collegium. Sir, the Finance Minister was then a member of that Committee, and his contributions were very much useful in drafting the Report. So, in that respect, the situation which prevails now is that the absence of a recognised

LoP in the Lok Sabha should not come in the way of the appointment of the Director of the CBI. So, this Bill is very necessary, and it is to be welcomed. And, at the same time, I would like to bring to the notice of the Minister and the Government, that there is another Act, the National Human Rights Commission Act, which also requires the Leader of the Opposition in the appointment of the Commissioner. The Prime Minister, the Speaker of the House, the Home Minister, the Leaders of the Opposition of the Lok Sabha and Deputy Chairman of the Rajya Sabha are all members of the Selection Committee of the NHRC. So, in that case, when NHRC Commissioner is going to be appointed, again, I think, a Bill has to be brought forward. So, what I would suggest is, kindly look into it, if any other Act which requires the Leader of the Opposition in the Lok Sabha to be a member. If so, then, kindly bring a common Bill which will apply to all other Acts, so that we need not consume our time in the Parliament on discussing for two-three hours on one single Bill or one single appointment.

Another thing, Sir, is with regard to the vacancy or absence, which our learned Member, Mr. Memon, was telling that no appointment of a Director shall be invalid merely by reason of any vacancy or absence of a member in the Committee. Sir, vacancy is situational and absence may be intentional. So, I think, this is very relevant. So, supposing there is a vacancy, that does not invalid the appointment of the Director means there is no need for this Bill. Without the presence of the LoP, we can jolly well go. So, I feel that instead of vacancy or absence, absence in any manner of a member, will not make the appointment of the Director invalid will be correct. So, I think, this is a Bill to be welcomed, and the Government will consider these points. Thank you very much, Sir.

SHRI K.T.S. TULSI (Nominated): Hon. Deputy Chairman, Sir, I do not intend to deliver a speech. I welcome the creation of a collegium for the purpose of appointment of a Director. It is a wholesome provision. But I just want to set the record straight. If I am not mistaken, the Leader of the Opposition said that the provision in Clause 2 is on the same lines as in the Lok Pal Act as well as the Central Vigilance Commission Act. I have both these Acts with me. I just, for the sake of record, want to say neither of these two statutes use the word 'absence'. The provision in the Lok Pal Act is, Clause 2, "No appointment of chairperson or a member shall be invalid merely by reason of any vacancy in the Selection Committee". The word 'absence' is not there. This is an addition, and we can't say that the Bill is tailored on the basis of either the Central Vigilance Commission Act or the Lok Pal Act because the Central Vigilance Commission Act also does not use the word 'absence'. Section 9, sub-section (6)(a) only talks about vacancy. It says, "No Act or proceeding of the Commission shall be invalid merely by reasons of – (a) any vacancy or any defect in the constitution of the Commission". There is no question of

[Shri K.T.S. Tulsi]

absence in a collegium of only three members being made redundant. Three members ought to be there. The whole purpose is to lend credibility to the appointment process. Therefore, the Leader of the Opposition or the leader of the largest party is an essential ingredient for the purpose of the object of this Act. So, I would submit that the Leader of the House may kindly consider deletion of the word 'absence' from Clause 2. Thank you, Sir.

श्री राजीव शुक्ल (महाराष्ट्र) : उपसभापति जी, मैं समझ सकता हूँ कि सरकार के लिए यह बिल कितना महत्वपूर्ण है क्योंकि 2 दिसम्बर को मौजूदा सी.बी.आई. डायरेक्टर रिटायर हो रहे हैं। उससे पहले इस बिल को पारित कराकर, राष्ट्रपति महोदय के सिग्नेचर होने हैं और इस दरमियान सहमति होकर नोटिफिकेशन निकलना है तथा इसकी मीटिंग होनी है। इसलिए यह बिल उनके लिए अत्यंत महत्वपूर्ण है। सब लोगों ने इसके technical aspects पर बोला, बहुत विस्तार से Leader of the House ने उसे सबके सामने रखा और दूसरी तरफ से भी counter arguments आए। उस पर मैं कुछ नहीं बोलना चाहता, लेकिन दो बातें कहना चाहता हूँ। आज सी.बी.आई. डायरेक्टर का पद बहुत महत्वपूर्ण हो गया है। आज पूरे देश में सी.बी.आई. डायरेक्टर की चर्चा होती है, अखबार भरे रहते हैं, हर जगह अदालतों में इसका जिक्र होता है। वह इतना महत्वपूर्ण पद है कि अब जब सरकार इस पर नियुक्ति करने जा रही है तो इस बात का ध्यान रखना चाहिए कि इस पद की जो गरिमा है, इस पद की जो साख है, इस पद के प्रति जो लोगों का विश्वास है, इसके प्रति आम जनता की जो निष्ठा है, वह बरकरार रहे, ऐसा व्यक्ति उसमें नियुक्त होना चाहिए। दूसरा, अब वक्त आ गया है कि सी.बी.आई. की भी accountability फिक्स करनी पड़ेगी, उनकी कोई जवाबदेही नहीं है। हर चीज के लिए लोग तुरंत मांग करते हैं कि यह जांच सी.बी.आई. को दे दो, जैसे सी.बी.आई. किसी दूसरे ग्रह से आयी हुई कोई एजेंसी है, उसमें ऐसे लोग हैं जो बिल्कुल दूध के धुले हैं और वही सब कुछ करते हैं। इसलिए सी.बी.आई. की मांग हर समय होती रहती है, लेकिन सी.बी.आई. द्वारा जांच किए हुए 97 परसेंट केस अदालतों में हार जाते हैं, they fall flat in the courts. इसलिए कन्सन्स ऑफिसर्स की accountability होनी चाहिए, यह उनकी सी.आर. में कहीं reflect नहीं करता है। जब उनकी कहीं पोस्टिंग होती है और उसके बाद में प्रमोशन पर जाते हैं तब यह बात कहीं reflect नहीं करती कि सी.बी.आई. में रहने के दौरान उनके इतने केस अदालत में गिरे और अदालत ने रिजेक्ट किए। इसलिए इनकी accountability फिक्स करने का वक्त आ गया है और हमें इस एजेंसी की accountability फिक्स करनी चाहिए। इसके अतिरिक्त जो मीडिया ट्रायल ये करवाते हैं, उस पर भी कहीं न कहीं रोक लगनी चाहिए। किसी आदमी से अगर उन्होंने बात भी कर ली तो हो गया, CBI quizzes, CBI grills और फिर उस आदमी से लोग बात करना बंद कर देते हैं, उसको टेलीफोन करना बंद कर देते हैं और कहते हैं, बाप रे! इसकी तो सी.बी.आई. इन्क्वायरी चल रही है, इससे बात नहीं करनी है। रिश्तेदार तक छोड़ जाते हैं, दोस्त बात करना बंद कर देते हैं और वह आदमी सोसायटी में untouchable हो जाता है। आप देखें कि उसका mental trauma क्या होता है, कितना स्ट्रेस उसके ऊपर होता है। इसलिए कहीं न कहीं इसकी फंक्शनिंग का भी ध्यान

रखना चाहिए। आज हर चीज मीडिया में जाती है। ज़रा सा कुछ हुआ, मीडिया में चला गया। इस प्रकार एजेंसी के द्वारा जो मीडिया ट्रायल होता है या कराया जाता है, इस पर भी कहीं न कहीं सरकार से संबंधित लोगों को कुछ नियम बनाने चाहिए। ...**(व्यवधान)**...

श्री नरेश गुजराल : आप इसके बारे में कुछ सुझाव दे दीजिए क्योंकि आपको इस चीज का काफी एक्सपीरियंस है। आपने दस साल उसको कैसे चलाया है? ...**(व्यवधान)**...

श्री राजीव शुक्ल : हमने तो नहीं किया। ...**(व्यवधान)**... हम इतने काबिल होते तो उधर से उधर कैसे आ जाते? ...**(व्यवधान)**... इतने काबिल होते तो हमारे लोग सी.बी.आई. को फेस नहीं कर रहे होते? ...**(व्यवधान)**...

श्री वी. हनुमंत राव (तेलंगाना) : कोई आफिसर अच्छा काम करता है, उसको एक साल तक घर में बैठा कर रखते हैं, इसके बारे में भी बोलिए। ...**(व्यवधान)**... जगन मोहन रेड्डी केस में जिस आफिसर ने अच्छा काम किया, इतनी इन्क्वायरी करके सब कुछ निकाला, उसको लूपलाइन में डाल दिया, इसके बारे में भी बोलिए।

श्री राजीव शुक्ल : वह आपका विषय है। मैं जनरल बात कर रहा हूँ। मैं पॉलिसी के लेवल पर बात कर रहा हूँ। यह सब के लिए ठीक है। आज आप वहां हैं, हम इधर हैं, कल कौन किधर जाता है, nobody knows, लेकिन यह चीज बहुत जरूरी है कि मीडिया के लोग एक गरिमा मेनटेन करें। लोगों के केरियर तबाह न हों। उनके करेक्टर रोल में रिफ्लेक्ट होना चाहिए। आखिरी चीज मैं यह बोलना चाह रहा हूँ कि बार-बार इस पर बहस हो रही है और इसके बारे में तुलसी साहब ने भी कहा है कि जो 'absence' वर्ड इसमें है, तो मैं लीडर ऑफ द हाउस से यही रिक्वेस्ट करूंगा कि अगर इस मामले में स्पष्ट और categorical assurance हाउस में दें कि जो विपक्ष का नेता होगा, उसकी उपस्थिति को सरकार ensure करेगी कि उसकी उपस्थिति हो और उसकी राय हो, तो मुझे लगता है कि इस पर हमें कोई आपत्ति नहीं है। बहुत-बहुत धन्यवाद।

श्री सतीश चन्द्र मिश्रा : मीडिया के बारे में इनसे अच्छा और कौन जानता है। ...**(व्यवधान)**...

SHRI ANAND SHARMA: Just one question. Since both the hon. Leader of the House, I myself and some other Members did refer to a number of Acts whether it was the Central Vigilance Commission Act of 2003, the Right to Information Act – which does not have this same language or the provision, that is the only Act, – or the Constitution Amendment Act of 2014, that is, the Judicial Appointments Commission and the Lokpal and Lokayuktas Act of 2013. The hon. Leader of the House did say that we have lifted the same language, of 'the Legislative Department'. Correct. Now I will just read from one Act which is the same, it follows in '3', 'no appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.' That is the truth. Again the Lokpal and Lokayuktas Act says, 'no appointment of a Chairperson or member shall be invalid merely by reason of any

[Shri Anand Sharma]

vacancy.' So, all this language is there. Let me put this on record that the word 'absence' is not there in any of the Acts. So, we would like to hear from you why 'absence' is included.

SHRI ARUN JAITLEY: Sir, I am extremely grateful to the hon. Members who have, by and large, supported this Bill and raised some issues of legitimate concern. India needs a professional, independent, fair and a balanced CBI. My friend from Trinamool Congress was right when he said that I have also written extensively on this subject myself in the past that our experience has not been the best experience. Therefore, the idea is that even when there is no recognized Leader of the Opposition, we must have a representative of the Opposition as a part of the collegium that appoints. That is the motivating idea which is prompting this. This is the part of the CBI reform. Some other reforms in the functioning are in the Lokpal Act itself which all of us have almost unanimously approved. Therefore, the first motivation behind this Bill is that the CBI should not be a partisan agency, it must be a fair agency and there must be participation of the Member of the Opposition in the appointment of the CBI Director. As far as the language is concerned, I myself, along with the concerned officials and the Minister for Department of Personnel, Dr. Jitender Singh, went through the language of each one of them. I must say that considering the way we draft our legislations, at times, we make very *bona fide* errors. For instance, Shri Anand Sharma and others referred to the CVC Act. Whereas, others use the words 'recognized Leader of the Opposition' as 'recognized', the RTI refers to the words 'leader of the single largest group'. Now, is the 'group' same as a 'political party'? Now, one suggestion was that we should use the word 'group'. The largest party, in this case, in Opposition is the Congress Party. But let us assume the AIADMK and the Trinamool Congress join hands to form a group, then, it is their representative who would have come. And, at some stage, the suggestion, which has been made, that all this language must be identical that has to be there. Now, why was the word 'absence' put in. That is the core question. A vacancy can arise, but in the case of Chief Justice of India there will never be a vacancy because there will be an officiating Chief Justice; similarly, Prime Minister always has to be there. But in a parliamentary or legislative post, there can be a vacancy in the State or at the Centre. Supposing, the Lok Sabha is dissolved, such a rare contingency can arise. In a State, supposing there is Article 356 and there is imposition of President's Rule, such a situation can arise. But that is a rare instance. Our experience, when we examined State-wise, has been that we had an example of one State where meeting after meeting, the relation between the Opposition and the Government was strained, the Leader of the Opposition would not attend the meeting.

SHRI ANAND SHARMA: Name the State.

SHRI ARUN JAITLEY: That Leader of the Opposition belonged to your party. He would not attend the meeting and the meeting had to be postponed for years together. Let us look at the political impact. The Leader of the Opposition says, "I don't attend the meeting". Therefore, by his own act, any decision, which is taken, will become invalid. So, why should we get into this? Do we envisage a situation where the Prime Minister and the Chief Justice of India will just send a make-belief notice and privately hold a meeting and appoint somebody? Will Chief Justice of India ever be a party to this? I have said this earlier too and I assure Mr. Anand Sharma and the entire House, through you, Sir, that the very object that we have voluntarily brought forward this Bill is not an act of courtesy that we are showing to any party or the Opposition. We want the system to be strengthened and we will try and bring other legislations in *pari materia*. There may be a situation – suppose a CIC has to be appointed – two parties may give a letter saying that we are now a group. I am not giving a new idea to the Trinamool Congress. So, these languages have to be brought in *pari materia* with each other so that there is identical language that is followed in all these. Therefore because of 'vacancy' or 'absence' some contingencies may arise. All languages will eventually have to be brought to be the same. We will make sure, as an act of courtesy, as is always done, that the convenience of these high constitutional functionaries is always taken into consideration. Therefore, it is done all over. It will be done. From our side, we will not leave any stone unturned to make sure that the respect due to the largest party in Opposition is accorded to it. Not only is he invited, time is fixed in consultation, but even possible names are shared with him. Past practice has been that two days or three days before the appointments are made by collegiums, the short list of officers, the candidates involved, are shared with the collegium members and a consensus is developed. We would like to have a consensus and, therefore, we are going to move in that direction.

MR. DEPUTY CHAIRMAN: Thank you very much. Now, the question is:

That the Bill further to amend the Delhi Special Police Establishment Act, 1946, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill. In clause 2, there are two amendments, (No.1) by Shri P. Rajeeve. Mr. Rajeeve, are you moving the amendment?

SHRI P. RAJEEVE (Kerala): Sir, on the basis of the assurance given by the Leader of the House in his introductory remarks, I would not like to move the amendment.

MR. DEPUTY CHAIRMAN: Okay. Amendment not moved. Now, there is an amendment (No.2) by Shri K.N. Balagopal. Are you moving?

SHRI K.N. BALAGOPAL (Kerala): Sir, on the basis of the assurance given by the hon. Finance Minister, I am not moving it.

MR. DEPUTY CHAIRMAN: Both the amendments are not moved. Therefore, I shall now put clause 2 to vote.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

MR. DEPUTY CHAIRMAN: Now, Shri Arun Jaitley to move that the Bill be passed.

SHRI ARUN JAITLEY: Sir, I move:

That the Bill be passed.

The question was put and the motion was adopted.

MESSAGE FROM LOK SABHA

MR. DEPUTY CHAIRMAN: Now, Message from Lok Sabha.

The Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from Lok Sabha, signed by the Secretary-General of the Lok Sabha:-

“In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Constitution (Scheduled Castes) Orders (Amendment) Bill, 2014, as passed by Lok Sabha at its sitting held on the 27th November, 2014.”

Sir, I lay a copy of the Bill on the Table.
