

**To take away the special status of J&K**

\*138. SHRI ANIL DESAI: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether it is a fact that through Article 370, the Constitution gives special status to Jammu and Kashmir;

(b) if so, the special concessions/facilities granted to Jammu and Kashmir which are not available to other States;

(c) whether it amounts to discrimination among States; and

(d) whether Government is thinking of scrapping the special status of Jammu and Kashmir and if so, by when the process will be over?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI HARIBHAI PARTHIBHAI CHAUDHARY): (a) to (d) A Statement is laid on the Table of the House.

***Statement***

(a) In the Constitution of India, there is no mention of 'Special Status to Jammu and Kashmir'. Article 370 provides for 'Temporary provisions with respect to the State of Jammu and Kashmir'.

(b) to (d) The questions do not arise in view of the above.

SHRI ANIL DESAI: Sir, the written reply by the Minister is a bald statement. I appreciate that in the Constitution of India, there is no mention of 'Special Status to the State of Jammu and Kashmir'. But Article 370 provides for 'temporary provisions with respect to the State of Jammu and Kashmir'. May I know from the Minister the details of the 'temporary provisions with respect to the State of Jammu and Kashmir'? Is there any limit for keeping temporary provisions in respect of that State?

SHRI KIREN RIJIJU: Sir, the provision can be reflected in Part XXI of the Constitution, which clearly says that it is temporary and transitional. So, the provision made is neither static nor permanent. Based on that, there is not much scope to explain, rather than hoping that the status will become permanent one day. So, it is a transitional provision and it has been long due, and I cannot explain beyond that.

SHRI ANIL DESAI: Sir, may I know from the Minister as to what is the number of Kashmiri Pandits that fled the Valley and how many of them have returned during

the last ten years? With this, it is given to my knowledge that if a Kashmiri girl marries any person of an Indian State, her Kashmiri citizenship is revoked, but if she marries a Pakistani man, her citizenship is not revoked. Her rights over her property remain safe. Is it true?

MR. CHAIRMAN: Does this flow out of this question?

SHRI KIREN RIJIJU: It does not, Sir, because the number of Kashmiri Pandits and all this is a separate process going on. So, it is not related to Article 370.

DR. KARAN SINGH: Sir, I just want to point out, before I ask a question, that Article 370 was brought into the Constitution two or three years after the events when my father signed the Instrument of Accession in October, 1947, and the events thereafter. Therefore, Article 370, in fact, reflected the position at that time. And, if you look at the debates in the Constituent Assembly, Pandit Jawaharlal Nehru, Sardar Vallabhbhai Patel and Dr. B.R. Ambedkar had all applied their mind to this and, therefore, Article 370 was introduced. Also, let me say that in Article 371, there are special provisions for more than half-a-dozen States in India. So, I think we must look at this thing. If I may submit, Article 370 has many Constitutional, legal and political implications. Will the Minister assure us that whenever he looks at this matter, he will look at it with extreme caution and understanding?

SHRI KIREN RIJIJU: Sir, definitely, hon. senior Member has rightly pointed out the feelings and the historical perspective also. As I have stated earlier, there are special provisions for various States under Article 371 and various sub-clauses thereunder. There are a number of such States, the details of which I would not like to read out. The mention about Jammu and Kashmir is not special, but it is a temporary provision. That word has been used carefully. If we see the debates in the Constituent Assembly also, 'Special Status' has never been mentioned. So, whatever steps are to be taken by the Government, absolutely, these will be taken after taking into consideration the historical perspective and with great care also.

SHRI K.T.S. TULSI: Mr. Chairman, Sir, I would like to ask the hon. Minister, through you, whether it is not a fact that Article 370 is the lynchpin between the people of Jammu and Kashmir and India, and by talking about the need to scrap, whether the Government is not risking re-opening the entire issue of Kashmir's accession to India.

SHRI KIREN RIJIJU: Sir, the question is slightly misplaced because Section 3 of the Constitution of Jammu and Kashmir itself says that Jammu and Kashmir is and will remain an integral part of India. There cannot be debate on that. And, Section 147 of the Constitution of Jammu and Kashmir also says that Section 3 and 5 cannot be amended. So, it is very clear. So, there is not any issue with regard to the status of Jammu and Kashmir.

DR. KARAN SINGH: I had signed that Constitution.

SHRI KIREN RIJJU: It is an honour for us that the senior Member is with us in this House. Now, with regards to deletion or abrogation of Article 370, it needs Constitutional Amendment. Even if we say, we don't have numbers in the House. So, there is no point in talking about this issue because we will not rake up this issue. ...*(Interruptions)*... The party's view is already known on that. So, I will not state anything extra in this House.

श्री के.सी.त्यागी: सर, मैं इस ऐतिहासिक मौके का फायदा उठाकर कहना चाहता हूँ कि जो जम्मू-कश्मीर के पहले सदर-ए-रियासत हैं, उनसे ज्यादा इतिहास की जानकारी किसी को नहीं है। जब महाराजा हरि सिंह जी ने जवाहर लाल नेहरू के कहने पर शेख अब्दुल्ला की मदद से पहला अर्कोर्ड साइन किया था, जिसमें आर्टिकल 370 के बारे में था, जो सबसे पहले सदर-ए-रियासत थे — at that time, he was hardly eighteen — और लम्बे समय तक रहे और 1952 का जो जवाहर लाल नेहरू और शेख अब्दुल्ला पैक्ट था, उसके भी ये विटनेस थे, मैंने इनकी दोनों किताबें पढ़ी हैं। सर, इनसे ही जानकारी क्यों न ली जाए कि कौन सी शर्तें थीं कि भारत के साथ इसका विलय हुआ था?

श्री सभापति : तो आप इनसे सवाल पूछ लीजिए।

श्री के.सी.त्यागी : जी, सर। मैं चाहता हूँ कि वे बोलें..*(व्यवधान)*..

MR. CHAIRMAN: Tyagi ji, will you please address your question to the hon. Minister? ...*(Interruptions)*...

SHRI K. C. TYAGI: Sir, through the hon. Minister, I want to ask this question from hon. Dr. Karan Singh ji. ...*(Interruptions)*...

MR. CHAIRMAN: You will have to adopt a different procedure. ...*(Interruptions)*...

श्री अविनाश राय खन्ना : सर, उनका क्वेश्चन तो आया नहीं है।

श्री सभापति : आप अपना सवाल पूछ लीजिए।

श्री अविनाश राय खन्ना : धन्यवाद सभापति महोदय, मैं माननीय मंत्री महोदय से कहना चाहता हूँ कि धारा 370 के ऊपर देश में बहुत सारी डिबेट है और बहुत से क्लैरीफिकेशंस नहीं हैं। मेरा उनसे सिम्पल सा क्वेश्चन है कि 370 से देश को, जम्मू-कश्मीर प्रदेश को और जनता को क्या लाभ है?

श्री किरन रिजिजू : सर, इसमें लाभ और नुकसान के बारे में मैं जिक्र नहीं करना चाहता हूँ क्योंकि यह मुद्दा बहुत संवेदनशील है। उस समय, जैसा मैंने कहा कि एक transitional phase को देखते हुए एक प्रोविज़न वहां रखा हुआ है जिसके माध्यम से आर्टिकल 370 के तहत जम्मू-कश्मीर का अपना एक कांस्टीट्यूशन है। हम लोग तो यही चाहेंगे कि हिन्दुस्तान में हर स्टेट का बराबर का स्टेटस हो, लेकिन इसके बावजूद कुछ स्टेट्स को स्पेशल स्टेटस दिया गया है। इसके लिए जो डिबेट का रास्ता है, वह तो हमेशा खुला रह सकता है, लेकिन इसमें फायदे और नुकसान की बात मैं अभी नहीं बता सकता हूँ।