

(vi) The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Bill, 2023 3 hours

GOVERNMENT BILL

The Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023

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Amendments for reference of the Bill to a Select Committee of the Rajya Sabha

MR. CHAIRMAN: Shri Arjun Ram Meghwal to move a motion for consideration of the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023.

THE MINISTER OF STATE OF THE MINISTRY OF LAW AND JUSTICE; THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS; AND THE MINISTER OF STATE IN THE MINISTRY OF CULTURE (SHRI ARJUN RAM MEGHWAL): Sir, I move:

That the Bill to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner and other Election Commissioners, the procedure for transaction of business by the Election Commission and for matters connected therewith or incidental hereto, be taken into consideration.

MR. CHAIRMAN: There are two amendments by Dr. John Brittas and Dr. V. Sivadasan for reference of the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Bill, 2023 to a Select Committee of Rajya Sabha. The Members may move the Amendments at this stage without speech.

DR. JOHN BRITTAS (Kerala): Sir, I move:

"That the Bill to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner and other Election Commissioners, the procedure for transaction of business by the Election Commissioner and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:

1. Shri Bikash Ranjan Bhattacharyya
2. Dr. John Brittas
3. Prof. Manoj Kumar Jha
4. Shri Elamaram Kareem
5. Shri Jose K. Mani
6. Shri A. A. Rahim
7. Shri Tiruchi Siva
8. Dr. V. Sivadasan

with instructions to report by the last day of the first week of the next (263rd) Session of the Rajya Sabha".

DR. V. SIVADASAN (Kerala): Sir, I move:

"That the Bill to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner and other Election Commissioners, the procedure for transaction of business by the Election Commissioner and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:

1. Shri Elamaram Kareem
2. Shri A. A. Rahim
3. Shri Sandosh Kumar P
4. Shri Binoy Viswam
5. Dr. John Brittas
6. Dr. V. Sivadasan

with instructions to report by the last day of the first week of the next (263rd) Session of the Rajya Sabha".

MR. CHAIRMAN: Motion for consideration of the Bill and the Amendments moved thereto are now open for discussion. I now call upon the Members whose names have been received for participation in the discussion. Shri Randeep Singh Surjewala; you have twenty one minutes.

The questions were proposed.

SHRI ARJUN RAM MEGHWAL: Sir, I want to say something, if you permit.
...(Interruptions)...

MR. CHAIRMAN: Do you want to make initial comments?

एक माननीय सदस्य: हिन्दी में बोलिएगा।...(व्यवधान)...

श्री अर्जुन राम मेघवाल: जी, मैं हिन्दी में बोलूँगा।...(व्यवधान).... ठीक है।

MR. CHAIRMAN: As Chairman, I tell everyone you have the freedom to speak in a language of your choice. One Member has no jurisdiction to direct another Member to speak in a particular language. Our commitment to a particular language may be too deep-rooted. So, Randeepji, let the hon. Minister make some observations.

श्री अर्जुन राम मेघवाल: चेयरमैन सर, 10 अगस्त, 2023 को इसी सदन में यह बिल 1991 के एक्ट को रिप्लेस करके इंट्रोड्यूस किया गया था। 1991 का जो एक्ट था, उसमें बाकी सब चीज़ें तो ठीक थीं, लेकिन उसमें अप्वाइंटमेंट का प्रावधान नहीं था, उसमें अप्वाइंटमेंट वाला क्लॉज नहीं था। जैसा कि आपको जानकारी है, 2 मार्च, 2023 को सुप्रीम कोर्ट ने पीआईएल को सुनते समय एक फैसला दिया, '...until the Parliament makes a law in consonance with Article 324(2) of the Constitution,' तो उस फैसले के अनुसरण में सरकार यह बिल लेकर आई है।

MR. CHAIRMAN: What did the Supreme Court direct?

SHRI ARJUN RAM MEGHWAL: The Supreme Court has said, 'until the Parliament makes a law..' जब चर्चा हो जाएगी, उसके बाद मैं बाकी चीज़ों पर आऊँगा।...(व्यवधान).... इसमें crux यह है कि '...until the Parliament makes a law in consonance with Article 324(2).' हमारे संविधान का जो आर्टिकल 324(2) है, वह कहता है कि अप्वाइंटमेंट के संबंध में पार्लियामेंट एक्ट बनाये, जबकि पहले हमारा एक्ट नहीं था। हालांकि 1991 में एक्ट बना, लेकिन उसमें अप्वाइंटमेंट गायब था। सुप्रीम कोर्ट के तीन-चार ऑब्जर्वेंशंस थे और हम यह बिल आर्टिकल 324(2) के तहत लेकर आए हैं। इसमें एक ऑफिशियल अमेंडमेंट भी है। अब तक यह प्रक्रिया थी कि सरकार नाम तय करती थी और अप्वाइंटमेंट्स हो जाते थे, लेकिन अब इसकी सर्वे कमिटी भी बनी है, सेलेक्शन कमिटी भी बनी है, इसमें सैलरी का विषय भी आया है, इसमें प्रोटेक्शन भी है। अभी हम जो ऑफिशियल अमेंडमेंट लेकर आ रहे हैं, उसमें तीन-चार चीज़ें बहुत इम्पोर्टेंट हैं। हमने 10 अगस्त को जो बिल पेश किया था, इसमें सर्वे कमिटी के क्लॉज 6 में भी एक ऑफिशियल अमेंडमेंट है, जिसे मैं बाद में मूव करूँगा। इसके क्लॉज 10 में सैलरी को लेकर भी एक अमेंडमेंट है। इसके क्लॉज 15 में कंडिशन ऑफ सर्विस को लेकर भी एक अमेंडमेंट है। फिर, हमने इसमें एक क्लॉज 15(A) भी इन्सर्ट किया है, जो कि प्रोटेक्शन से संबंधित है। यदि कोई चीफ

इलेक्शन कमिशनर और इलेक्शन कमिशनर अपनी ड्यूटी करते समय कोई कार्यवाही संपादित करेंगे तो उनके खिलाफ ऐसे प्रकरणों में किसी कोर्ट में कार्रवाई नहीं हो सकती है। वह इस प्रोटेक्शन से संबंधित है।

महोदय, इसमें इस तरह के प्रावधान हैं, इसलिए मैं चाहता हूँ कि सदन इस पर चर्चा करे। उसके बाद जो सुझाव आएँगे, उस पर आप मुझे जैसी अनुमति देंगे, उसके अनुसार मैं जवाब देने का प्रयास करूँगा, धन्यवाद।

श्री रणदीप सिंह सुरजेवाला (राजस्थान): सभापति महोदय, आदरणीय मंत्री जी ने कहा कि सुप्रीम कोर्ट ने कई ऑब्जर्वेंशंस दिए हैं, जिनकी चर्चा वे बाद में करेंगे, ठीक है। चुनाव आयोग का आधार प्रजातंत्र की शुचिता है, प्रजातंत्र की निष्पक्षता है। संविधान और डेमोक्रेसी, जिसको हम प्रजातंत्र कहते हैं, उसका आधार ही निष्पक्ष चुनाव है और निष्पक्ष चुनाव करवाने वाली एजेंसी चुनाव आयोग है। जब भी आप चुनाव आयोग की बात करेंगे तो ये चार शब्द - निष्पक्षता, निर्भीकता, स्वायत्तता और शुचिता आपके जेहन में जरूर आएँगे। सर, आप सभापति जी भी हैं और कानूनविद् के तौर पर सुप्रीम कोर्ट के एक काबिल वकील भी हैं। 140 करोड़ लोगों के इस देश में किसी व्यक्ति के जेहन में भी ये चार शब्द आएँगे। यह कानून, जो आज माननीय मंत्री जी और सरकार लेकर आई है, वह इन चारों शब्दों को बुलडोजर के नीचे कुचलने वाला कानून है, यह मेरा विनम्र आग्रह है।

सभापति जी, इससे पहले कि मैं इस बिल के प्रावधानों की चर्चा करूँ, independence of election, जिसे अंग्रेजी में कहते हैं and avoidance of interference of Executive. हमारी इलेक्शन मशीनरी इन दोनों बातों से प्रेरित होगी, यह हमारे संविधान के निर्माताओं ने कहा था। काश, आदरणीय कानून मंत्री जी मेरी, आपकी और इस देश के लोगों की नहीं, बल्कि जो बाबा साहेब अम्बेडकर ने कहा था और संविधान सभा में जो चर्चा हुई थी, उस पर अगर एक नज़र डाल लेते तो शायद ये इस कानून को अभी वापस ले लेते या बनाते ही नहीं अथवा इसे लेकर ही नहीं आते।

सभापति महोदय, बाबा साहेब ने electoral machinery के बारे में क्या कहा था, मैं आपकी अनुमति से उसके कुछ शब्द यहां पढ़ कर बताना चाहता हूँ। 15 जून, 1949 को संविधान सभा के अंदर इलेक्शन कमीशन और electoral machinery, चुनाव आयोग, प्रजातंत्र की शुचिता और स्वायत्तता पर चर्चा हुई। दो अन्य सदस्यों ने बड़ी महत्वपूर्ण बातें कहीं, मैं उनकी तरफ आपका ध्यान आकर्षित करूँगा, पर बाबा साहेब ने क्या कहा, मैं वह पढ़ कर बताना चाहूँगा। And, I quote, 'In a very early stage in the proceedings of the Constituent Assembly, a committee was appointed to deal with what are called Fundamental Rights...' — this is what Baba saheb was saying — ...'That Committee made a Report that it should be recognized that the independence of elections and avoidance of any interference by the executive in the elections to the Legislature should be regarded as a fundamental right and provided for in the Chapter dealing with Fundamental Rights. When the matter came up before the House, it was the wish of the House that, while there was no objection to regard this matter as a fundamental importance, it should

be provided for in some other part of the Constitution and not in the Chapter dealing with Fundamental Rights. But, the House affirmed, without any kind of dissent, that in the interest of purity and freedom of elections to the legislative bodies, it was of the utmost importance that they should be freed from any kind of interference from the executive of the day.’ This is what Babasaheb said. And, I quote Babasaheb Ambedkar further. He said, ‘Therefore, so far as the fundamental question is concerned, the election machinery should be outside the control of the executive Government. There has been no dispute. What Article 289...’ — today it is commensurate to Article 324 — ‘...does is to carry out that part of the decision of the Constituent Assembly. It transfers the superintendence, direction and control of the preparation of the electoral rolls and of elections to Parliament and the Legislatures of the States to a body outside the executive to be called the Election Commission.’ That is what Babasaheb said.

And, Sir, not only Babasaheb Ambedkar, he was reacting to what two other Members were saying and I would like to quote two lines from what was said by two Members of the Constituent Assembly. One was Prof. Shibban Lal Saxena and I quote him, Sir. He said, ‘It is quite possible that some party in power who wants to win next elections may appoint a staunch party man as Chief Commissioner.’ I also quote Pandit Hridaynath Kunzru. I quote, ‘We are going in for democracy based on adult franchise. It is necessary, therefore, that every possible step should be taken to ensure the fair working of the electoral machinery. If the electoral machinery is defective or is not efficient or is worked by people whose integrity cannot be dependent upon, democracy will be poison at the source, nay people. Instead of learning from elections how they should exercise their vote, how by judicious use of their vote, they can bring about changes in the Constitution and reforms in the administration, will learn only how parties based on intrigues can be formed and what unfair methods they can adopt to secure what they want.’ In this context, Babasaheb Said and I quote, ‘That electoral machinery has to be necessarily independent and it has to be necessarily outside the interference of the executive.’ These were the two fundamentals on which the Constituent Assembly was unanimous. The Constituent Assembly was also unanimous that a fair and free election, bereft of the interference of the ruling Executive, is a fundamental right. Though not included, yet the entire spirit of the Constituent Assembly was this. I ask myself. महोदय, मैं खुद से भी, इस सदन से भी और हर वह व्यक्ति, जो इस बात को सुन रहा है, उनसे पूछता हूं और जब मैं स्वयं से यह सवाल पूछता हूं कि क्या वह कानून, जो मंत्री जी लेकर आए हैं, क्या बाबा साहेब, संविधान सभा और संविधान सभा ने एक voice, एक मत से जो कहा था, बगैर लाग-लपेट, बगैर राजनीतिक द्वेष के क्या यह उस मापदंड पर खरा उतरता है! मुझे यह कहना पड़ेगा कि यह उस

पर औंधे मुंह गिरता है। Let me now bring your kind attention to the provisions of the Bill. As also the fact that hon. Minister says that there are just some observations of the Supreme Court, अगर आप इस कानून को देखें, इस बिल को देखें, जो मंत्री जी लेकर आए हैं, तो मैं उसकी ओर ध्यान आकर्षित करना चाहूंगा। मेरे एक माननीय साथी ने क्लॉज़ 7 पर अमेंडमेंट भी दिया है। अब चीफ इलेक्शन कमिशनर और इलेक्शन कमिशनर्स की नियुक्तियां कौन करेगा? माननीय मंत्री जी, जो कानून का मसौदा लेकर आए हैं, उसके मुताबिक माननीय प्रधान मंत्री जी उस समिति के चेयरपर्सन होंगे, लीडर ऑफ अपोजिशन मेम्बर होंगे। एक यूनियन कैबिनेट मिनिस्टर, जिनको भी प्रधान मंत्री जी चिन्हित करेंगे, वह सदस्य होगा। यानी प्रधान मंत्री जी और उनके एक मंत्री, जो उनकी मर्जी से चिन्हित किए जाएंगे, उन दो लोगों का बहुमत होगा। सुप्रीम कोर्ट ने इसके बारे में क्या कहा था? मैं आपके माध्यम से माननीय मंत्री जी का ध्यान आकर्षित करूंगा। 2 मार्च, 2023 को अनूप बरनवाल के निर्णय में लगभग 230 सफे में सुप्रीम कोर्ट ने जो कहा, मैं उसकी आठ लाइन्स इस सदन में पढ़कर बताना चाहूंगा। उन्होंने पैरा 9 में कहा, I quote, "The Executive alone being involved in the appointment ensures that the Commission becomes and remains, a partisan body and a branch of the Executive. The independence of the Commission is intimately interlinked with the process of appointment". Now, I quote paragraph 165, "The Election Commissioners, including the Chief Election Commissioners, blessed with nearly infinite powers, and who are to abide by the fundamental rights, must be chosen not by the Executive exclusively and particularly without any objective yardstick." सर, दो बातें कही गईं। पहली, executive exclusively चीफ इलेक्शन कमिशनर और इलेक्शन कमिशनर की नियुक्ति नहीं कर सकता है। दूसरा, किसी objective yardstick के बगैर यह नहीं किया जा सकता। इसी पैराग्राफ में कोर्ट ने क्वेश्चन भी किया। I quote, "An Election Commission, which does not ensure free and fair polls as per the rules of the game, guarantees the breakdown of the foundations of the rule of law". यानी रूल ऑफ लॉ, कानून के शासन को खत्म कर देगा। एक ऐसा चुनाव आयोग, जो निष्पक्ष नहीं है, जो Executive के द्वारा नियुक्त किया जा रहा है या फिर वह executive के इंटरफेयरेंस से परे नहीं है। I further quote, "Equally the sterling qualities which we have described, which must be possessed by an Election Commission, are indispensable for an unquestionable adherence to the guarantee of equality in Article 14". 230 सफे के जजमेंट में दो बातें साफ हैं। Number one, the CEC and the EC must be at arms' length from the Government. Number two, the process has to be beyond influence or under the dictate of the Executive of the day. Exactly what *Baba Saheb* had said, exactly what the Constituent Assembly had said was reiterated, was reaffirmed by none less than the Supreme Court Judgement to which the learned Minister is referring to. May I say, Sir, that Clause 7 *... I am deliberately using that word; I hope it is not unparliamentary, Sir. I am subject to correction.

* Withdrawn by the hon. Member

MR. CHAIRMAN: But, surely, there could be another word.

SHRI RANDEEP SINGH SUJEWALA: Yes. It violates and negates the rigours and the affirmation by the Constituent Assembly, by Babasaheb Ambedkar, by other individuals and hon. Members of the Constituent Assembly; it goes against the very spirit of the Constitution that is enshrined in Article 14; it completely negates and subjugates the Election Commission to the authority of the Executive; and it does away with, may I respectfully say, willingly, -- if I may say 'maliciously' -- the judgement of the Supreme Court *in toto*. That is why this law is *per se* like a still-born child.

Thirdly, I also want to point out, Sir, जैसा माननीय उच्चतम न्यायालय ने कहा, आर्टिकल 14, जो हमारे मौलिक अधिकार का हिस्सा है, जो कि सत्ता में बैठे हुए सत्ताधीशों के बेलगाम कार्यों पर अंकुश लगाने का सबसे बड़ा तरीका है, यह पूरा कानून उस आर्टिकल 14 के letter and spirit के विरुद्ध है और इसलिए मौलिक अधिकारों का उल्लंघन है। जैसा कि माननीय उच्चतम न्यायालय ने भी कहा है। सभापति जी, Appointments Committee है, वह अब एक empty formality है, if I may use that word. Appointment Committee क्या है? माननीय प्रधान मंत्री जी हैं और माननीय प्रधान मंत्री जी द्वारा मनोनीत किए गए उनके एक और मंत्री हैं। गांव की एक कहावत है, क्योंकि मैं ग्रामीण पृष्ठभूमि से हूँ और आप भी हैं,

"अंधा बांटे रेवड़ी, मुड़ मुड़ अपने को दे।"

If Prime Minister and his Minister are going to be the majority in the committee, then, why have the committee? Let the Prime Minister appoint everybody. Why even have this law? It is an empty formality.

Then, Sir, the Supreme Court said, the Constituent Assembly said, the first Law Minister of the country, Babasaheb Ambedkar, said that the ruling regime's two nominees make the entire process ineffective, negatory and redundant. This is what the Supreme Court also said. I want to quote those four lines from para 8 of that judgement. In fact वे एक कदम आगे गए और उन्होंने कहा कि चुनाव आयोग और न्यायपालिका में कोई अंतर नहीं है। I quote, Sir: "Like the Judiciary, the Election Commission must display fearless independence. In the absence of norms regarding the appointments, a central norm, that is, institutional integrity, is adversely affected. An independent appointment mechanism would guarantee eschewing of even the prospect of bias." Sir, this is what the Supreme Court said, this is what the framers of the Constitution said and this is what this Government is afraid of. I am saying it with a sense of responsibility, for they do not want an independent Election Commission, CEC and EC, they want a pocket borough. उन्हें एक जेबी चुनाव आयोग की आवश्यकता

है। यह कानून एक जेबी चुनाव आयोग का गठन करेगा, आप जेब से चुनाव आयोग निकालेंगे और जो आप चाहेंगे, फिर वह प्रजातंत्र के साथ वही करेगा। इस कानून का फाइनल मतलब यही है। यह pick or choose का एक फॉर्मूला होगा। Sir, may I respectfully also say that it does not pass any kind of constitutional muster. We have to be aware. This is an august House. After all, we have to be aware as to what we are doing or saying and what we are passing. This is manifestly arbitrary. These are ill-conceived attempts. This law is an ill-conceived attempt at consolidating undue total executive control over the electoral body, that is, the Election Commission. The process is arbitrary, the intent is malicious and the result is disastrous, if I may say. That is what is going to happen, Sir, and I again want to take the liberty of last time quoting the Supreme Court where they said in Para 119 ...

MR. CHAIRMAN: Before that, let me remind the hon. Member, with highest respect to everyone, the Parliament is the sole repository of law-making, and this is wisdom of the Parliament. Neither the Executive nor the Judiciary nor any other body ...

SHRI RANDEEP SINGH SURJEWALA: Sir, my time may be stopped.

MR. CHAIRMAN: No; I am aware of that. Since majorly you have focussed on Supreme Court judgement as if the reflections therein have to bind us, I would expect the debate to rise to a very high level because this House, this Parliament, to the exclusion of any other entity, be it Executive or Judiciary, is supreme when it comes to law-making, and you are a part of it. Extra thirty seconds. Go ahead. ...*(Interruptions)*...

श्री जयराम रमेश (कर्नाटक): सर, कल तो और कुछ बोल रहे थे।.. (व्यवधान)..

श्री सैयद नासिर हुसैन (कर्नाटक): सर, कल तो और कुछ बोल रहे थे Supreme Court की जजमेंट के बारे में। .. (व्यवधान)..

MR. CHAIRMAN: I am really surprised. ...*(Interruptions)*... I am really surprised, both of you. It is time we rise to some level, at least. ...*(Interruptions)*... You represent a party that has a great history.

श्री सैयद नासिर हुसैन: सर, कल आप ही बोले थे।... (व्यवधान)..

श्री सभापति: क्या बोले? Let the hon. Member rise and indicate what I spoke. Please rise. ...*(Interruptions)*... Take your seat. Indicate what I spoke. What did I say?

SHRI SYED NASIR HUSSAIN: Sir, yesterday, Supreme Court judgement के बारे में आपने बोला कि जब कोई quote कर रहा है, तो ... **(व्यवधान)**..

MR. CHAIRMAN: Would you be good enough to quote me? ...*(Interruptions)*... Do it during the course of the day.

SHRI SYED NASIR HUSSAIN: Sir, I am doing it. You allow me. You are not allowing me.

MR. CHAIRMAN: Mr. Narsir Hussain, during the course of the day, go through the yesterday's proceedings of the House and put it on the Table that you rely on that. It is not a good habit. I am only making a plea to the Members that we are Parliament of one-sixth of humanity. We are supreme when it comes to law-making. We cannot suffer intervention from any other organ, be it Executive or Judiciary. That is what I am saying. Hon. Member may continue. ...*(Interruptions)*... Please take your seat. ...*(Interruptions)*... When your time comes ... *(Interruptions)*... Take your seat. Yes!

SHRI RANDEEP SINGH SURJEWALA: Mr. Chairman, Sir, let me begin by thanking you for your words of wisdom. You are much seasoned both in age and experience, both in law, as also, perhaps, in parliamentary practices. You have held many offices. But with all humility that I have, may I say, Sir? You are hundred per cent right that Parliament is the august body and is the over-arching body. It is the fountainhead of democracy. But even the fountainhead of democracy will have its sanctity when it does not commit arbitrary acts and passes arbitrary laws. The fountainhead of democracy must adhere to the very tenets of democracy out of which it is born. There is a power higher than us and that is democracy itself and the Constitution itself. We may not be the interpreters of Constitution, we are framers of law. It is the Constituent Assembly and the Parliament which continues to amend that Constitution which is enacted by the Constituent Assembly. But there is something called a higher spirit of democracy and an accountability to the constitutional norms. So, as I stand today here, and as I say what I say to my esteemed Minister who is very experienced and I place before you with all your wisdom and experience, I must say, I am conscious, I am duty-bound and I am answerable to that highest spirit of democracy

and the Constitution which was enacted by this very Parliament, and that spirit of the Constitution and that spirit of democracy today tells me that a law is being brought which will tarnish, bulldoze and sabotage that very democracy and undermine the very constitutional practice that you and me and each one of us swear by.

That is my anguish today which I seek to place, through you, Sir, before this august House and the hon. Minister. The Supreme Court only interprets the Constitution. It is also the defender and protector of the Constitution. We have said that many times. May I remind you, Sir, that I did not quote the Supreme Court in the beginning. I am only responding to what the hon. Chair said to me. I began with the words and wisdom of Babasaheb Ambedkar. I began with the wisdom of the Constituent Assembly, and this was the only issue -- independence of Election Commission, lack of interference from the political executive and an electoral machinery, which is answerable only and only to the tenets of democracy and fairness and equity. That is all that the Constituent Assembly was saying. We have seen and we have read through -- Sir, you have read through and I have read through -- many times the debates of the Constituent Assembly on many, many facets. I found -- please correct me because perhaps you have read the Constituent Assembly debates far more times than I have, but I have also done so -- that not even a single member of the Constituent Assembly disagreed that the fountainhead of democracy is fairness of the electoral process and independence of the election machinery. This was the only issue where the entire Constituent Assembly, irrespective of caste, colour, creed, religion, political differences, ideological differentiations, agreed. They were unanimous. That is all that I pointed out to the hon. Minister. That is why, Sir, I did not begin with the judgement of the Supreme Court. I said, the Supreme Court has only affirmed what was said by the Constituent Assembly. ...(*Time-bell rings.*)...

MR. CHAIRMAN: Please conclude.

SHRI RANDEEP SINGH SURJEWALA: Yes, Sir.

Sir, I also want to point out that the law and what the hon. Minister has brought, negates and ignores not one, not two, but the three committees on the subject, two of which were appointed by their Government. May I just quote from the Dinesh Goswami Committee on Electoral Reforms. Perhaps the Chair was also a Minister at that time in that Government. You were a Minister, and that Government was supported by the Bharatiya Janta Party then. I would like to quote from that Report.

MR. CHAIRMAN: It was supported by nearly the entire House except your Party.

SHRI RANDEEP SINGH SURJEWALA: Yes, Sir. What did that Report say? I am only saying कि जो खुद कहा है, कम-से-कम उसे तो मान लीजिए। हाथ जोड़कर इतना ही कह रहा हूँ। हमारी मत मानिए। Para 1.2 on page 9 of the Report says, "For CEC - appointed by the President in consultation with the Chief Justice, the Leader of the Opposition in Lok Sabha, and of course, the Leader of the largest Opposition group; for EC -- Chief Justice, the Leader of the Opposition and the CEC." This was the recommendation made. That has been ignored by the hon. Minister. Again, their own Law Commission Report No. 255 on Electoral Reforms, 2015, headed by Justice A.P. Shah, may I remind the Minister, said... ...(*Time-bell rings.*)...

Sir, I will just take three minutes by the watch.

MR. CHAIRMAN: You are eating into the time of your Party only. Go ahead.

SHRI RANDEEP SINGH SURJEWALA: Sir, I don't think my Party has an objection. I am sure, the Chair has none either.

MR. CHAIRMAN: The total time allocation to your Party is 41 minutes. You have taken 24 minutes. Then, continue up to 41 minutes if they agree.

SHRI RANDEEP SINGH SURJEWALA: Okay, Sir.

Sir, I want to remind the Minister and quote para 6.12.5 of the Law Commission Report No. 255 of 2015, headed by Justice A.P. Shah. It says, "The appointment of all the Election Commissioners including the CEC should be made by the President in consultation with a three-member collegium or selection committee consisting of the Prime Minister, the Leader of the Opposition in the Lok Sabha or the Leader of the largest Opposition party in Lok Sabha and the Chief Justice of India". मंत्री जी, जब लॉ कमीशन की रिपोर्ट मानने की बारी आई, तब आप इन दोनों बातों को * जो आपके लॉ कमीशन की रिपोर्ट है और आपके...

MR. CHAIRMAN: Use some other word. * नहीं कहिए।

SHRI RANDEEP SINGH SURJEWALA: I stand corrected.

* Withdrawn by the hon. Member

MR. CHAIRMAN: He has unimpeachable credentials.

SHRI RANDEEP SINGH SURJEWALA: Very well, Sir. I concede it. My next short point is अगर आप बिल के क्लॉज 5 को भी ध्यान से देखें, तो इसमें एक बड़ी यूनीक बात है। पहली बार यह निर्णय लिया गया कि चीफ इलेक्शन कमिशनर और इलेक्शन कमिशनर अब हिंदुस्तान का कोई नागरिक नहीं हो सकता, except one category. There is complete reservation now on who can be CEC and EC. He can either be a serving Secretary of the Government of India or a retired Secretary of the Government of India. मतलब कम्प्लीट 100 परसेंट रिजर्वेशन forever आपने कर दिया। मैं माननीय मंत्री जी से केवल यह पूछता हूँ, Sir, if you were not the Chairman, could you not, as a jurist, be a CEC or EC? I believe एक ऐसा व्यक्ति, और मैं ब्यूरोक्रेसी की competence के बारे में नहीं कह रहा हूँ, पर ब्यूरोक्रेट ने तो कभी न सरपंच का चुनाव लड़ा, न पंचायत समिति का चुनाव लड़ा, न जिला परिषद का चुनाव लड़ा, न एमएलए का चुनाव लड़ा, न एमपी का चुनाव लड़ा और न किसी कोऑपरेटिव सोसाइटी का चुनाव लड़ा, तो इलेक्शन की लिस्ट और इलेक्शन का मैनेजमेंट वे करेंगे, जिन्होंने कभी जिंदगी में कोई चुनाव नहीं लड़ा। यह आपने उनके लिए 100 परसेंट रिजर्व कर दिया है। एक शॉर्ट प्वाइंट यह था कि क्या आप इस पर पुनर्विचार करेंगे?

सर, मैं एक और शॉर्ट प्वाइंट के बारे में बोलना चाहता हूँ। एक सर्च कमेटी है, जिसके संबंध में क्लॉज 6 में माननीय मंत्री जी अब अमेंडमेंट भी ले आए हैं। यह सर्च कमेटी बड़ी यूनीक है और हिंदुस्तान में जितने और ऐसे कानून हैं, यह उनसे बिल्कुल अलग है। अगर आप इसमें देखें तो पहले कैबिनेट सेक्रेटरी इसके हैड थे, अब माननीय मंत्री जी खुद इसके हैड बन गए हैं। So, it is now headed by the Law Minister. We have no problem. But the Search Committee is now actually a steering committee. This steering committee will now eliminate candidates. Say, I also apply as former Secretary -- I am saying it hypothetically -- or a serving Secretary. They can eliminate any number of inconvenient people that they want. They will only select five people. For CVC or CBI Director, it is not so. The Search Committee puts up all the names. पर यहां तो यह steering committee है। गांव की एक कहावत है कि "घर की बही काका लिखनिया"। ऐसा राजस्थान, हरियाणा में कहते हैं, तो सर्च कमेटी कानून मंत्री हैं और इलेक्शन कमेटी प्रधान मंत्री हैं और उसके नॉमिनी उनके मंत्री हैं, तो "घर की बही काका लिखनिया", अपनी मर्जी है, जो करेंगे। It cannot be a steering committee that they have to restrict it to five people only. Why? Why not place everybody? I don't know why they want to do so. Clause 17 of this Bill runs contrary to Article 324(3). If you see Article 324(3), it says that the Chief Election Commissioner is the Chairperson of the Commission. The framers of the Constitution categorically recognise so. May I read just two lines?

MR. CHAIRMAN: Go ahead.

SHRI RANDEEP SINGH SURJEWALA: Article 324(3) says, "When any other Election Commissioner is so appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission." सर, वे चीफ जस्टिस हों, वे प्राइम मिनिस्टर हों, वे चीफ इलेक्शन कमिशनर हों, उन्हें इलेक्शन कमीशन को रेगुलेट करना है, पर अब आपने यह बोल दिया कि कोई निर्णय हो, *quasi judicial* function हो, administrative function हो, daily functions हों, वे मेजॉरिटी से डिसाइड होंगे, यानी कल को सभापति जी, hypothetically मंत्री जी अगर सीईसी हैं और मुझे इनको नेगेट करना है, तो मैं तीन और मेम्बर्स appoint कर दूंगा और फिर कहूंगा कि आप दफ्तर में अपनी कुर्सी पर नहीं बैठ सकते या आप किसी फाइल पर साइन नहीं कर सकते हैं या आप किसी *quasi judicial* authority के मेम्बर ही नहीं बन सकते हैं, जब सिम्बल का निर्णय मेरे पास आएगा। I find this strange. The procedure and conduct is always done. If I were to say, I am going to regulate the procedure of this House, you will say 'No, even Deputy Chairperson cannot do it; I am the Chairperson.' So, the Chairperson, inherently, has the powers to regulate. But this Bill does not say so. In the end, I only want to say to the hon. Minister, through your good offices, one thing. There is an old saying of law and I want to reiterate it today. *Mantriji*, however high you may be; however powerful your Government may be; whatever may be the brute majority you may enjoy, the democracy and the Constitution is above you, and you cannot subjugate, bulldoze and trample over it. I also want to say that we, whatever may be our numbers as joint opposition of the INDIA Alliance, are the defenders of the Constitution of India. We are the defenders of the people of India. We are the champions of the voice of the voiceless and we will continue to do so. सर, एक समय था, जब 'E.C.', यह जो 'E.C.' वर्ड है, इसका मतलब था - 'electoral credibility', लेकिन दुर्भाग्य से अब आपने इसको बनाने का निर्णय किया है, 'E.C.' - 'elections compromised'. Don't do that. इस देश में जेबी चुनाव आयोग नहीं चलेगा। अगर आप इस कानून के माध्यम से जेबी चुनाव आयोग बनाएँगे, तो आप संसद, प्रजातंत्र और संविधान, तीनों की शुचिता, निर्भीकता, निष्पक्षता और स्वायत्तता, उन सब का हनन करेंगे। Thank you, Sir.

SHRI JAIRAM RAMESH: Sir, just give me one minute. In the course of my colleague's speech, he referred to the Government that prevailed in 1990. You, in good spirit, good wit and good humour, said that that was a Government supported by all parties except your party.

MR. CHAIRMAN: I correct myself. Your party did not support us.

SHRI JAIRAM RAMESH: Yes, Sir. I want to remind you that also became your party three years later.

MR. CHAIRMAN: No; I told this House that I have been a Member of this party. I have good connections there. They need to reciprocate. I had been on this side also and I had been in NCP also, but Shri Jairam Ramesh will not change himself. He knows I made this statement earlier. All I need to indicate to the House is that when Shri Surjewala said, "We will defend", I would like to say that in togetherness, this Parliament is the ultimate defender of the Constitution, ultimate architect of the Constitution and if anyone seeks to change the architecture of this Constitution, Parliament is the custodian of it. No incursion whatsoever can emanate from any other source except this Parliament and that is why we are debating it. What shape the law takes will be determined by Parliament. The Executive has come up with a Bill. That is the ultimate authority. Shri Ghanshyam Tiwari, you have 15 minutes.

श्री घनश्याम तिवाड़ी (राजस्थान): सर, आप इसको 21-21 तो करिए।

श्री सभापति: यह तो आप अपनी पार्टी को कहिए।

श्री घनश्याम तिवाड़ी: माननीय सभापति महोदय, मैं प्रारम्भ करूँ, इसके पहले मैं यह कहना चाहूँगा कि मेरे सामने एक समस्या आ गई है। जैसे उन्होंने गाँव की दो कहावतें बताई थीं, हमारे यहाँ पर गाँव में एक कहावत है कि "बिना पढ़ा हुआ जजमान पढ़ा बराबर और पढ़ा हुआ जजमान खुदा बराबर"।

श्री सभापति: एक सेकंड। घनश्याम तिवाड़ी जी सही बात नहीं बता रहे हैं। वे रणदीप सिंह सुरजेवाला और मेरा ख्याल रख रहे हैं। कहावत है - "अनपढ़ जाट पढ़े बराबर और पढ़ा-लिखा जाट खुदा बराबर"। तिवाड़ी जी, यह बात सैकड़ों साल पहले की है, अब हालात बदल गए हैं!

श्री शक्तिसिंह गोहिल (गुजरात): सर, यह आज भी लागू हो रही है।

MR. CHAIRMAN: Professor, this is known as expression of pent-up feeling. तिवाड़ी जी, पर आप इस बात का ध्यान रखिए कि यह कहावत बहुत पुरानी है, पानी बहुत बह चुका है, अब आप और हममें कोई ज्यादा फर्क नहीं है।

श्री घनश्याम तिवाड़ी: सभापति महोदय, जब माननीय सुरजेवाला जी बोल रहे थे, मैं उनके मुँह से लोकतंत्र की और चुनाव आयुक्त की नियुक्ति की बात सुन रहा था, तो मुझे बड़ा रस आ रहा था। मुझे अच्छी तरह ध्यान है कि एक बार नवीन चावला, जो कि श्रीमती इंदिरा गांधी जी के सेक्रेटरी थे, उनको ही चुनाव आयुक्त बना दिया गया था और वे आज कह रहे हैं कि सरकार उनको नियुक्त करने जा रही है! उन्होंने ऐसी बात कही है। फिर वह पार्टी लोकतंत्र की बात करे, जिसने

इमरजेंसी लगायी और सारे दूसरे काम किये! तो मैं लोकतंत्र की बात नहीं करूँगा, उन बातों पर मैं नहीं जाऊँगा। मैं इस बिल की ओर जा रहा हूँ।

माननीय सभापति महोदय, मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ। उन्होंने दो बातों की चर्चा की। उन्होंने संविधान सभा की चर्चा की और सर्वोच्च न्यायालय के निर्णय की चर्चा की। पहले तो मैं संविधान सभा के बारे में बताना चाहूँगा कि संविधान सभा ECI की नियुक्ति व्यवस्था को संसद के विवेक पर छोड़ने को सहमत हो गई थी। उसने कहा था कि इस चुनाव का सारा सिस्टम कार्यपालिका के हाथ में तो नहीं होना चाहिए, लेकिन संसद इसके लिए कानून बनाए और यह संसद के विवेक पर है। इसलिए मैं आपकी उस बात की तारीफ़ करता हूँ और आपको धन्यवाद देना चाहता हूँ कि आपने जो कहा कि संसद ही सर्वोपरि है, न तो कोई न्यायालय और न ही कोई और संस्था। इसलिए सर्वोपरि संसद में यह कानून लेकर हमारे अर्जुन राम मेघवाल जी आये हैं।

महोदय, उन्होंने बाबा साहेब अम्बेडकर का जिक्र किया। वे हमारे पूज्य हैं और founder member हैं। उनके बाद अब अगर कोई Scheduled Caste का आदमी कानून मंत्री बना है, तो वह अर्जुन राम मेघवाल जी हैं। तो जब आप उनकी चर्चा करते हैं, तो अर्जुन राम मेघवाल जी की भी चर्चा कीजिए। इसलिए मैं यह निवेदन करना चाहता हूँ कि जो वर्तमान विधेयक है, उसको लाने का कारण क्या है। विपक्ष को हर बात पर सुप्रीम कोर्ट में जाने की आदत पड़ गयी है। इसके कारण जिस सुप्रीम कोर्ट के निर्णय का बार-बार जिक्र कर रहे थे, कल उसी सुप्रीम कोर्ट ने अपने जजमेंट में कहा कि सरकार की हर बात को सुप्रीम कोर्ट में चुनौती देने से अराजकता की स्थिति पैदा हो जाएगी। वे अराजकता की स्थिति पैदा करने का प्रयत्न कर रहे थे।

महोदय, मैं आपसे यह कहना चाहूँगा कि यह विधेयक लाने की आवश्यकता क्यों पड़ी। जब अजीत के केस में सुप्रीम कोर्ट में गए, तो सुप्रीम कोर्ट ने तीन लोगों की समिति बना दी कि भारत का प्रधान मंत्री, प्रतिपक्ष का नेता और सुप्रीम कोर्ट का चीफ़ जस्टिस - ये सब मिल कर यह तय करेंगे, जब तक कानून नहीं बन जाता। तो उस परिप्रेक्ष्य में कानून बनाने के लिए यह विधेयक लेकर हमारे विधि मंत्री जी आज यहाँ पर आए हैं, इसलिए मैं विधि मंत्री जी का स्वागत करता हूँ।

सभापति महोदय, मैं दूसरी बात यह कहना चाहता हूँ कि इस कानून में क्या है। इस कानून में चयन समिति की संरचना की व्यवस्था की गयी है। चयन समिति कैसी होगी, इसमें उसकी संरचना की व्यवस्था की गयी है। चयन समिति में कौन लोग शामिल होंगे, इस बात की व्याख्या की गयी है। इसमें अध्यक्ष के रूप में प्रधान मंत्री रहेंगे, सदस्य के रूप में लोक सभा में विपक्ष का नेता होगा। इसमें इनके लिए और भी ज्यादा रियायत दी गयी है। इसमें आगे चल कर कहा गया है कि विपक्ष के नेता - संख्या के आधार पर यदि विपक्ष का मान्यता प्राप्त दल का नेता नहीं हो, तो वहाँ उससे भी कम संख्या वाली सबसे बड़ी पार्टी का जो नेता हो, उसको भी उसमें शामिल कर लिया जाएगा, इतना concession दे दिया गया, क्योंकि हमें पता है कि परमानेंट रूप से वे कभी भी इस स्थिति में नहीं आएँगे कि उनको मान्यता प्राप्त विपक्ष की भूमिका मिले। इसलिए सरकार ने सहृदयता से यह प्रावधान कर दिया कि वह संख्या न भी हो, तब भी इनका प्रतिनिधि चयन समिति में रहेगा। इसके साथ ही प्रधान मंत्री द्वारा सदस्य के रूप में नामित एक कैबिनेट मंत्री भी उसमें शामिल होगा।

माननीय सभापति महोदय, 70 साल तक जिस आदमी ने इस मामले में कभी चयन समिति की बात ही नहीं की, अपनी इच्छा से उसको बनाते रहे, वह आज इस प्रकार की बात करे, तो यह

मेरी समझ में नहीं आता। महोदय, यह चुनाव आयोग क्या है, यह लोगों के ध्यान में कब आया? मैं याद दिलाना चाहता हूँ कि जब सबसे पहले टी.एन. शेषन भारत के मुख्य चुनाव आयुक्त बने थे, तब लोगों को पता लगा कि चुनाव आयोग क्या होता है। ...(व्यवधान)... वरना पहले तो राज्य ही चुनाव आयोग था। अभी चर्चा हो रही थी कि ये जो सदस्य बनेंगे, ...(व्यवधान)... उनका यह कैडर होगा। ...(व्यवधान)... उनका यह कैडर होगा। ...(व्यवधान)...

श्री सभापति: एक सेकंड। शक्तिसिंह जी, ...(व्यवधान)... आप मेरी बात सुनिए। ...(व्यवधान)... मैं आपको एक राय दे रहा हूँ। ...(व्यवधान)... मैं आपको एक राय दे रहा हूँ। ...(व्यवधान)... मैं विधान सभा में माननीय घनश्याम तिवाड़ी जी के खिलाफ रहा हूँ। मैं प्रतिपक्ष में था, माननीय घनश्याम तिवाड़ी जी मंत्री भी थे। आप इनको जितना टोकेंगे, इनको उतनी ऊर्जा आएगी। यह मत कीजिए, यह मेरी आपको राय है।

श्री नीरज डांगी (राजस्थान): सर, ये पहले कांग्रेस में थे। ...(व्यवधान)...

श्री सभापति: नीरज डांगी जी के पिताजी भी हमारे साथ थे। मैं आपको राय दे रहा हूँ। घनश्याम जी, अब आपको interruption नहीं होगा, तो आप समय में अपनी बात कह पाएंगे। ...(व्यवधान)...

श्री घनश्याम तिवाड़ी: सर, डांगी साहब जयपुर में मेरे पड़ोस में ही रहते हैं। मैं निवेदन कर रहा था कि ये चर्चा कर रहे थे कि जिन लोगों का कैडर बनाया गया है, जो चुनाव आयुक्त बनेंगे या मुख्य चुनाव आयुक्त बनेंगे, उनमें से कभी कोई पंचायत का चुनाव लड़ा हुआ आदमी नहीं होगा। यह माननीय सुरजेवाला जी ने कहा। माननीय सुरजेवाला जी, जिला निर्वाचन अधिकारी डिस्ट्रिक्ट कलेक्टर होता है, मजिस्ट्रेट होता है, वह कब चुनाव लड़ा हुआ होता है? विधान सभा के चुनाव का अधिकारी एसडीएम होता है, वह चुनाव कब लड़ा हुआ होता है? एक भी आदमी चुनाव लड़ा हुआ नहीं होता है और अगर चुनाव लड़े हुए आदमी को बनाते, तो फिर चुनाव आयोग ही नहीं होता। इसलिए सबसे बढ़िया व्यवस्था यह की गई है। आप यह बात तो करते हैं, लेकिन उस समय जो कुछ बात कहनी चाहिए थी, वह आपने नहीं कही। आपको मुख्य बात यह कहनी थी कि भारतीय लोकतंत्र में और इसमें समस्या क्या है? इस समय जो सबसे बड़ी समस्या है, वह है - प्रजातांत्रिक पारिवारिक सामंतवाद। इन्होंने गोस्वामी समिति की सिफारिश की बात की। ये उस पर बोल रहे थे, लेकिन सबसे बड़ी समस्या आज भारतीय लोकतंत्र के सामने है - पारिवारिक प्रजातांत्रिक सामंतवाद। ये बोल रहे थे कि 'इंडिया' इसके खिलाफ खड़ा होगा। यह 'इंडिया' पारिवारिक प्रजातांत्रिक सामंतशाही प्रवृत्तियों का प्रतिनिधित्व करता है। यह मैं आज यहां पर बताना चाहता हूँ। सात-सात लोग एक परिवार के मेंबर और मंत्री हैं। वह प्रजातंत्र और लोकतंत्र के लिए खतरा है। ये उस लोकतंत्र की बात नहीं करते।

सभापति महोदय, चुनाव आयोग की जो व्यवस्था की गई है, वह निष्पक्षता के लिए की गई है, वह केवल सुप्रीम कोर्ट के निर्णय के आधार पर नहीं की गई है। सुप्रीम कोर्ट का डायरेक्शन है, लेकिन एक व्यवस्था करनी थी कि 1991 के कानून में इस प्रकार की कोई व्यवस्था नहीं थी। आर्टिकल 324 के अंतर्गत और 1991 के कानून में ऐसी व्यवस्था नहीं होने के कारण यह व्यवस्था

की गई। यह व्यवस्था उन व्यवस्थाओं से बेहतर है। यूनियन पब्लिक सर्विस कमीशन में जो नियुक्तियां होती हैं, वे नियुक्तियां कैसे होती हैं? उससे बेहतर व्यवस्था इसमें की गई है। इसमें अनुसूचित जाति आयोग से बेहतर व्यवस्था की गई है, राष्ट्रीय पिछड़ा वर्ग आयोग से बढ़िया व्यवस्था की गई है और राष्ट्रीय अनुसूचित जनजाति आयोग से बढ़िया व्यवस्था की गई है। अन्य निकायों में जो नियुक्तियां होती हैं, उससे भी बढ़िया और व्यापक व्यवस्था इसमें की गई है, क्योंकि उनमें तो प्रतिपक्ष का नेता होता ही नहीं है। जब वे सारे संवैधानिक रूप से ठीक ढंग से काम कर रहे हैं, तो फिर ये नियुक्तियां और आयोग ठीक ढंग से काम क्यों नहीं करेगा?

(उपसभापति महोदय पीठासीन हुए।)

माननीय उपसभापति महोदय, मैं निवेदन करना चाहता हूं कि भारत की दो चीजों का अध्ययन करने के लिए दुनिया भर से लोग आते हैं। उनमें से पहला है, भारत का चुनाव। भारत के जैसा चुनाव विश्व के किसी देश में नहीं होता है। आचार संहिता लगने से पहले जो चीफ सेक्रेटरी और सेक्रेटरी मुख्य मंत्री और मंत्रियों के साथ थे, जिस दिन आचार संहिता लगती है, वे चुनाव आयोग के अधीन हो जाते हैं और चुनाव आयोग के अधीन होकर निष्पक्ष रूप से काम करते हैं। ...**(व्यवधान)**... हमने कहा कि चुनाव करते हैं, हमको शपथ भी दिलवाते हैं।

श्री उपसभापति: माननीय तिवाड़ी जी, प्लीज इधर देखकर बोलें।

श्री घनश्याम तिवाड़ी: सर, मैं आपको देखकर ही बोल रहा हूँ।

श्री उपसभापति: कृपया आपस में बात न करें।

श्री घनश्याम तिवाड़ी: सर, मैं यह बात कह रहा था। दूसरी बात यह कि जब मैंने कहा था कि टी.एन. सेशन जैसे आने चाहिए - मैं भुक्तभोगी हूँ, मैं वर्ष 1972 से इन चुनावों से जुड़ा हूँ, चुनाव लड़ रहा हूँ, लड़ा रहा हूँ और अब यहां पहुंचा हूँ। मैंने देखा है कि जब चुनाव होते थे, तब सरकार की चलती थी, चुनाव के पहले दिन तक कांग्रेस के नेता ट्रांसफर के लैटर लेकर आते थे, कहते थे कि वोट दो और ये ट्रांसफर के लैटर लो, तब तक काम करते थे। महोदय, आचार संहिता क्या होती है, यह तब पता लगा, जब टी.एन. सेशन ने इतना काम किया। उन्होंने देखा कि यह तो बहुत खतरनाक काम है, तो उसकी संख्या बढ़ा दी, उन्होंने दो कर दिए, अब तीन हो गए हैं, तो जजमेंट के आधार पर निर्णय होगा। चुनाव आयोग की प्रक्रिया को ठीक करने के लिए हम इस प्रकार का काम कर रहे हैं। महोदय, चुनाव सुधार की बहुत बड़ी आवश्यकता है। अभी गोस्वामी समिति की सिफारिश की बात की गई, प्रकाश समिति की सिफारिशें भी आई थीं। उन चुनाव सुधारों के बारे में कुछ नहीं किया गया। अगर किया गया है, तो माननीय प्रधान मंत्री श्री नरेन्द्र मोदी जी के द्वारा किया गया है। उन्होंने वर्ष 1991 में कानून बनाया और खुद नियुक्तियां कर देते थे। तब कमिटी भी नहीं थी, सर्च भी नहीं था और रिसर्च भी नहीं था। ये स्वयं ही बना लेते थे और कर लेते थे, लेकिन जब ये कमिटी बनने लगीं, जब ये विपक्ष में बैठे और जब इसका थोड़ा टेस्ट आने

लगा, तब इनके दिमाम में इस प्रकार की तकलीफ हो गई, इसलिए ये इस प्रकार का काम बार-बार करते हैं। अगर आपको चुनाव सुधार करना है, तो चुनाव में धन के प्रयोग को कम करना चाहिए।

प्रो. मनोज कुमार झा (बिहार): आपने यह बात बिल्कुल सही कही।

श्री उपसभापति: मनोज झा जी, आपको भी मौका मिलेगा।

प्रो. मनोज कुमार झा: सर, आज मैं मौके पर नहीं हूँ।

श्री घनश्याम तिवाड़ी: चुनाव सुधार के लिए पैसा कहां से आएगा? चुनाव में ब्लैक मनी आता है। जब ब्लैक मनी पकड़ा जाता है, तो समस्या आती है। बंगाल में कहीं 58 करोड़ रुपये पकड़े जाते हैं, तो कहीं 350 करोड़ रुपये पकड़े जाते हैं। यह सारा पैसा लोक सभा चुनाव के लिए इकट्ठा किया जाता है, लेकिन इस बार चुनाव आयोग ने इन 5 राज्यों के चुनाव में ऐसी व्यवस्था की कि आज तक जितना पैसा नहीं पकड़ा गया, उतना करोड़ों रुपया इस चुनाव की आचारसंहिता के काल में पकड़ा गया। इस चुनाव में शुद्धता, शुचिता और इतनी पवित्रता कायम की गई।

सभापति महोदय, पार्टियों के अंदर जब तक आंतरिक लोकतंत्र नहीं होगा, तब तक सुधार नहीं होगा। हमारे यहां अटल जी, आडवाणी जी, मुरली मनोहर जोशी जी, वेंकैया जी से लेकर अमित शाह जी और राजनाथ सिंह जी तक हिन्दुस्तान के सारे प्रांतों से लोग आए हैं और एक सामान्य कार्यकर्ता भी भारतीय जनता पार्टी के अध्यक्ष पद तक पहुंच गया है, लेकिन उधर जो पारिवारिक, प्रजातांत्रिक सामंतवादी पार्टियां हैं, उनकी हालत यह है यदि कोई अन्य बन भी जाए, लेकिन चलता उनके कहने पर ही है। मैं समझता हूँ कि जब तक यह टिकट वितरण की व्यवस्था परिवारवादियों के हाथ में रहेगी, तब तक यह व्यवस्था ठीक नहीं हो सकती, इसलिए चुनाव की व्यवस्था को और ठीक करने के लिए पार्टियों के आंतरिक लोकतंत्र को सुधारने की आवश्यकता है। मैं माननीय सभापति महोदय के इस मत से पूर्णतः सहमत हूँ कि कानून बनाने का अधिकार पूर्णतः संसद का है। सुप्रीम कोर्ट कानून बनाने का आदेश नहीं दे सकता, वह निर्देश कर सकता है। जो सुप्रीम कोर्ट ने लिखा है, वही कानून में आए, यह ज़रूरी नहीं है। कानून को लोकतंत्र की भावनाओं के अनुसार और जनोपयोगी बनाने का काम इस संसद को करना है। हम वह काम कर भी रहे हैं। इसलिए उपसभापति महोदय, मैं आपसे एक निवेदन करना चाहता हूँ कि इस कानून में चार बातें प्रमुख रूप से हैं।

श्री उपसभापति: आपकी पार्टी ने जो समय दिया था, वह खत्म हो चुका है। क्या आप अपनी पार्टी का समय लेंगे?

श्री घनश्याम तिवाड़ी: मैं समाप्त ही कर रहा हूँ। मैं तो इतना ही निवेदन कर रहा हूँ कि वे दल जिन्होंने लोकतंत्र का गला घोंटा, वे दल जिन्होंने आपातकाल लगाया...

3.00 P.M.

जिन्होंने अपने सचिव को मुख्य चुनाव आयुक्त बनाया, उनके मुंह से ये सारी बातें शोभा नहीं देती हैं। भारतीय जनता पार्टी आंतरिक लोकतंत्र की पार्टी है और देश के लोकतंत्र को पवित्र रखने के लिए वह यह विधेयक लेकर आई है, इसलिए मैं इस विधेयक का समर्थन करता हूँ।

MR. DEPUTY CHAIRMAN: Now, Shri Jawhar Sircar; you have 18 minutes.

SHRI JAWHAR SIRCAR (West Bengal): Sir, I thank you for this opportunity. I thank my fellow Members for giving me this opportunity. I thank my Party, the Chairperson of my Party, the National General Secretary, for giving me this opportunity. This opportunity is not the discussion of one more Bill. Please try to understand that today we are dealing rather innocuously with the amendment of a Bill which actually seeks to touch, to shake the very foundations of our democracy. Our democracy rests on free and fair election, and today, we are discussing the key component, the structure and the mechanics of that election under the guise of a simple law. Why do we need to bother about Indian election? Why do we need to? I will give just a few examples and statistics. We claim to be the mother of democracy. Maybe, we can expand on this some other time. But we have the largest electorate in the world -- 92 crore at the last count. We have the largest functioning democracy. We have four million EVMs. The management of four million EVMs crisscrossing the country calls for supreme efforts. Sir, I have had the honour of conducting the 1998 and 1999 parliamentary elections as Chief Electoral Officer. I know the extreme difficulties under which officers function. The same officers, the same personnel, who may be slovenly in their daily work, rise to new heights because the surge of national duty overtakes them. It is time to salute their efforts. It is not a question of whether they went through an election process or not.

Sir, for national election, we have 20 lakh policemen drafted from here and there and posted outside of their polling stations. We have three lakh paramilitary personnel. I am just mentioning the statistics. I had 78,000 polling stations and I know what it was. We must salute the machinery that was created by the first founder, Mr. Sukumar Sen, who was drafted from Chief Secretary of West Bengal, to become the first Election Commissioner. He laid down the path so that India's democracy may continue uninterrupted. Now, having said that, I would recommend to friends on both the sides that they read some of the information with pride the amount of elections and the amount of troubles we have gone through. I remember in 1999 elections during the period of Atal Bihariji, there were floods in West Bengal. My Chief Election

Commissioner asked me, "तुम कर पाओगे?" I said, यह floods तो बंगाल में होता रहता है। We held elections on boats. That is where people went and voted. We have to go through this.

Now, I come to the new Bill and why do we stand to oppose? First thing we need to note in the new Bill is that the status of CEC and ECs is being deliberately lowered from that of a Judge to that of a Cabinet Secretary. सर, इसमें क्या है, मैं बताना चाहता हूँ। It is level 17. Under the Order of Reference, a Supreme Court Judge is at number 9 in the Warrant of Precedence; and Election Commissioner was also there. Now, it has been relegated to 9A. ये छोटी-छोटी बातें लगती हैं, But, Sir, on it depends the parity; on it depends the level at which one can call the other. If the Cabinet Secretary is equal to the Election Commissioner, tomorrow the Cabinet Secretary will not listen to the Election Commissioner and may say, हम बराबर हैं। You see, don't put danger through innocuous English words into the Act. Who can summon whom? So, there is a deliberate demeaning of the position of the Chief Election Commissioner and the Election Commissioners; it is being done deliberately under the guise of a few words.

Secondly, the appointment really boils down to that of PM and his Minister. यह 3:2:1, 2:2:1 खेलकर क्या फायदा है। आप फाइल पर ही बैठकर दे दीजिए। Why are we going through a charade? I would submit that after 71 years of conducting elections, God and Parliament have given us an opportunity to rethink. This is not the time to say that Mr. Navin Chawla was this and 'B' was this or Mr. Sunil Arora was that. This is not the time to discuss these. We have had good and bad on both the sides. Mr. Quraishi's book is of immense importance. Now, why I find this Bill so dangerous, let me explain. In Clause 6, it is given that a Search Committee will be headed by the Cabinet Secretary. Fair enough! A Search Committee, ठीक है, in all good spirit. Then, in Clause 7, they say that after the Search Committee has given names, it would be decided by a Selection Committee consisting of the Prime Minister, his own Minister and the Leader of the Opposition. The results are known. Why go through this?

The Supreme Court's Order gave a strong hint that the Chief Justice of India is, perhaps, willing to join a body and bring in a certain degree of legitimacy, sacrosanctity and fairness. That order, that innuendo, has been refused. Now, it doesn't matter who the Leader of the Opposition is at that point of time. I would submit that we have two leaders of the Opposition. दोनों को दे दीजिए। At least, there would be some amount of intelligent discourse before he can have a run-through. The more dangerous Clause is Clause 8. After all this election, and the Search Committee and all that, Clause 8 says that any person can be appointed as Chief Election Commissioner and Election Commissioner. Now, what a dangerous precedent you

are opening! This is a job where I have mentioned about some of the dimensions, where I have said that we have ten lakh polling stations. It is an administrative job and we know what administration is in this. I have also mentioned the degree of fairness that overcomes. Even Tiwariji also mentioned about it कि जब कर्तव्य आ जाते हैं, तब things become different. We are not clerks and officers at that point of time. Having said that, we would insist that you choose the best. There is a sub-Clause here saying who can be shortlisted - Secretary to the Government of India, somebody who has held the post. I would submit that the Secretary to the Government of India is determined by the pay scale. सीधी बात! And tomorrow Chairman of a co-operative society, who has been given that scale and has conducted elections, would fit into the Bill. Do you think that with a huge machinery in every village, in every tehsil, in every block, in every sub division, in every taluk, in every district of India, he would be able to run the elections? You are leaving gaping holes and I would submit that it is being done deliberately. Again, I repeat, in Clause 10, the downgrading of the rank takes place. This downgrading is not a question of what shoulder ranks we have. That's what is in Armed Forces. This downgrading is on the power to instruct during elections कि आपको यह करना ही है। That power is getting diluted by diluting the rank and this is extremely dangerous. I would submit that Clause 8 is very, very dangerous. I will read out to you. The Selection Committee of the Prime Minister may also consider any other person.(Interruptions)...

SHRI SUSHIL KUMAR MODI (Bihar): Sir, I have a point of order.(Interruptions)...

MR. DEPUTY CHAIRMAN: Please let him.....(Interruptions)... He is not yielding.(Interruptions)...

SHRI JAWHAR SIRCAR: Modiji, later.(Interruptions)... You are eating into my time.(Interruptions)...

MR. DEPUTY CHAIRMAN: Yes, please.

SHRI JAWHAR SIRCAR: Okay. So, if you have brought in an Amendment, we shall take a due look at it. Now, taking it in Clause 10, I have mentioned Clause 10 and I shall wait for the Amendment to see what comes up. Now, coming to the Constitution, this is a thing that reflects on Article 324 of the Constitution which gives, after all the debate that has been held, the power of conducting the elections upon this Election Commission.

And, it also makes a subtle difference. It is where I plead to my fellow legislators to have a look at this. It makes a difference between the CEC and the EC where the removal is concerned. In other words, an Election Commissioner can be removed, practically, at will, without protection. Now, you may say कि आप यह थ्योरिटिकल बात क्यों कर रहे हैं? मैं बता रहा हूँ कि यह थ्योरिटिकल बात क्यों कर रहा हूँ। This is practical. Do you remember the episode of Shri Ashok Lavasa when Shri Sunil Arora was the Chief Election Commissioner and was issuing orders that Shri Ashok Lavasa as member refused or had doubts. Shri Ashok Lavasa was going in for conscientious objection. We all know about it. The goings on within the Election Commission is secret and that is what it should be. But, we know from certain acts that Shri Ashok Lavasa was not on the same page with the CEC at that time; when the CEC, at that time, had set new low standards that Shri Naveen Chawla never did, could have never said. That is CEC. We have enough material to talk about it.

Now, what happened is that the removal here is equated to Supreme Court Judge, that is impeachment, which is very difficult. But, the ECs remain unprotected and I thought that this Government would have the largeness of heart and the depth of vision to include this protection to them because an Election Commission means three persons and not only one who is in the better books of the Government. When Shri Ashok Lavasa raised these conscientious questions, he was "promoted". If I may use the words, he was kicked upstairs. He was just removed. His family was raided; his son was raided and his wife was called in for questions. My humble submission is that if this gentleman had certain, you know what I mean, then why did you make him or did you make him, after knowing all these and keeping this information in a pocket कि बाद में इस्तेमाल करेंगे, आगे कभी गड़बड़ करे? Now, this is not playing fair. I now come to the judgement that has also been mentioned in great detail but this judgement is very, very pointed. It points out to whatever I mentioned about the Election Commissioner being at the mercy of the CEC. It refers to various steps taken to amend the present electoral law and then, uses a word, the Supreme Court, "It becomes imperative to shield the Election Commissioners and to insulate them from Executive interference." A word like this being mentioned by the Supreme Court is indication enough that we should be more judicious with the post. Now, coming to the 1991 Act, that it seeks to replace, the 1991 Act, actually, gives them that status that this Act is taking away. So, in a way, the 1991 Act was good enough. The 1991 Act was concentrated mainly on salaries. This one does on the demeaning of status. My humble submission to all the Members.... *...(Interruptions)...*

MR. DEPUTY CHAIRMAN: Let him complete. *...(Interruptions)...* I will give.... *...(Interruptions)...*

SHRI JAWHAR SIRCAR: Sir, I need those extra seconds. My only....
 ...(Interruptions)... Please pause it. ...(Interruptions)... Sir, let me carry on.
 ...(Interruptions)...

SHRI SUSHIL KUMAR MODI: Sir, I have a point of order. ...(Interruptions)...

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS; AND THE
 MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI V.
 MURALEEDHARAN): Sir,... ...(Interruptions)... And, if it is relevant or not, you
 can... ...(Interruptions)...

श्री जवाहर सरकार: अगर आपके पास कुछ है, तो पहले बताना था, not when I am debating.
 ...(Interruptions)... Do not destroy all institutions.... ...(Interruptions)...

MR. DEPUTY CHAIRMAN: Please. ...(Interruptions)... Shri Jawhar Sircar, please
 point of order. ...(Interruptions)... Point of order. ...(Interruptions)...

श्री जवाहर सरकार: सर, pause कीजिए।

MR. DEPUTY CHAIRMAN: Under which rule?

SHRI SUSHIL KUMAR MODI: Sir, it is under Rule 240. उपसभापति महोदय, वह
 अमेंडमेंट, जो सरकार ने मूव किया है, I think, he has not gone through the amended part
 of the Bill. ...(Interruptions)...

SHRI JAWHAR SIRCAR: I am reading it from that. ...(Interruptions)... I am reading
 from that. I am reading it from that. ...(Interruptions)...

SHRI SUSHIL KUMAR MODI: Otherwise, you are saying the old things.
 ...(Interruptions)... वे उसी पुरानी बात को रिपीट कर रहे हैं और जो अमेंटमेंट मूव हुआ है,
 उसको इन्होंने पढ़ा ही नहीं है। ..(व्यवधान)..अगर उसे पढ़ लेते, तो बोलने की आवश्यकता नहीं
 पड़ती। ..(व्यवधान)..उपसभापति महोदय, मैं यह कह रहा हूँ कि सरकार ने जो अमेंडमेंट मूव
 किया है, उसको इन्होंने पढ़ा ही नहीं है और ये पुरानी बात बोल रहे हैं। ..(व्यवधान)..

SHRI JAWHAR SIRCAR: Sir, let me continue. ...(Interruptions)...

MR. DEPUTY CHAIRMAN: Please. ...*(Interruptions)*... Now, Shri Sukhendu Sekhar Ray.

SHRI SUKHENDU SEKHAR RAY (West Bengal): Sir, the hon. Member has referred to Rule 240 while seeking the point of order. What does it say? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Rule 240.

SHRI SUKHENDU SEKHAR RAY: Yes, he mentioned about Rule 240. What does it say? I quote, it says, "The Chairman, after having called the attention of the Council to the conduct of a Member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other Members in debate, may direct him to discontinue his speech." How come this rule has a point of order to stop my Member from delivering his speech? ...*(Interruptions)*...

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

DR. JOHN BRITTAS (Kerala): And the Parliamentary Affairs Minister was supporting ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Hon. Members, I had to listen what he has to say—the Government has already brought an amendment. ...*(Interruptions)*... Please. ...*(Interruptions)*... बैठिए।

SHRI JAWHAR SIRCAR: Sir, may I continue? ...*(Interruptions)*... थोड़ा बहुत टाइम भी देखिए।

MR. DEPUTY CHAIRMAN: Yes, please continue. ...*(Interruptions)*...

SHRI JAWHAR SIRCAR: My submission was, the hon. Member had mentioned, Mr. Tiwari had mentioned about Mr. Navin Chawla, the Secretary of a very powerful person being made the CEC. I referred to the Secretary of the current Prime Minister being made to hold the most neutral post in the Constitution of India after the Election Commission and that is the CAG. Do not destroy every institution. The man who was his right hand is today the CAG and we don't get any reports. थोड़ी बहुत दो-चार रिपोर्टें भी आ गईं, पर अब बंद कर दी गई हैं।

MR. DEPUTY CHAIRMAN: Please come to the subject. ...*(Interruptions)*...

SHRI JAWHAR SIRCAR: Not only this, when I talk of the destruction of institutions, I go before him when we had a hero CAG, none of whose presumptive losses could be proved. We have had a hero who got two to three crores from the BCCI because of whatever. He was followed...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please speak on the subject. ...*(Interruptions)*...

SHRI JAWHAR SIRCAR: Sir, I am talking of the destruction of an institution. He was followed by a CAG who was charge-sheeted, who was brought into a CBI chargesheet. ...*(Interruptions)*... A CAG being brought ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Jawhar Sircarji, we are not discussing CAG. ...*(Interruptions)*... Please. ...*(Interruptions)*...

SHRI JAWHAR SIRCAR: The destruction of institution, look at the way they are destroying institution ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: We are not discussing CAG. ...*(Interruptions)*... Please. ...*(Interruptions)*... You are a senior Member. Please...*(Interruptions)*...

SHRI JAWHAR SIRCAR: I look upon the UPSC. ...*(Interruptions)*... सर, मुझे कहने दीजिए। I talk about the destruction or the demeaning of the UPSC where you have got a...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please come to the subject. ..*(Interruptions)*...

SHRI JAWHAR SIRCAR: Sir, it is on the subject, the wider scope. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: It is on the Election Commission. ...*(Interruptions)*... Please confine yourself to Election Commission. ...*(Interruptions)*...

SHRI JAWHAR SIRCAR: The misuse of ED and the CBI for absolutely...

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

SHRI JAWHAR SIRCAR: Okay, Sir. I will now come to the last point in this regard where I would say that the Act had spoken about a fixed tenure. This one also speaks about a fixed tenure; it brings it back at 65. Sir, when I mentioned about the destruction of institutions, all I meant is that among the three constitutional institutions--the UPSC, the CAG and the Election Commission--they are suffering through the same fate. I just wanted to draw the attention of the Ministry and provide empirical proof to prove that they are being hollowed out. Do not touch the Election Commission. CAG on a State, we can tolerate, but the Election Commission will determine the fate of democracy that is coming up. We are all going to be a part of its thinking process. There is a leadership that is called for, a huge number of members from the officers and staff of the Government and Para Government offices come up and, when they see somebody they cannot respect; I have been there again and again, अगर इज्जत नहीं दे पाए, तो कुछ नहीं बनेगा। आप जिस मर्जी को अपॉइंट कीजिए।

Sir, this may lead to what we call legalization of rigging. We have already found the corrosion, the erosion of the office where EVM is a suspect, VVPATs are not stamped, VVPATs are shown to you for a few *jhanki darshan* and then it goes into the pot, it does not validate my vote, where you see electoral bonds take over. There have been many, many things in the functioning of the Election Commission that would warrant a fuller discussion. But today, we concentrate only on the appointment and the consequential disappointment, that this side of the House has, to the process by which the entire foundation of fairness is sought to be shaken.

Sir, I would still submit that with all these operational faults, the Election Commission is still managing. I would submit that please let it function, please let the army of election personnel function, let them not feel that they are led by an obviously political boss for obvious reasons. Do not destroy this provision. ...(*Time-bell rings.*)...

MR. DEPUTY CHAIRMAN: Thank you.

SHRI JAWHAR SIRCAR: And withdraw those Sections that militate against fairness that actually embed unfairness into the system.

MR. DEPUTY CHAIRMAN: Thank you Jawhar Sircarji, your time is over.

SHRI JAWHAR SIRCAR: Do not legalize rigging. Thank you.

MR. DEPUTY CHAIRMAN: Hon. Member, Tiruchi Sivaji, you have seven minutes to speak.

SHRI TIRUCHI SIVA (Tamil Nadu): Sir, I stand to oppose this Bill for it is undemocratic, unethical, unjustifiable, unacceptable, for it undermines the very purpose. ...(Interruptions)...

MR. DEPUTY CHAIRMAN: You please speak. You are losing your time.

SHRI TIRUCHI SIVA: Sir, any nation will have a head, even it may be ruled by a dictator. But, only in a democracy, the people decide who will be the ruler to administer the country. And the unique and supreme indicator or identity of a democratic country is fair and free elections. And the undercurrent of it is the ballot. Sir, ballot is not a fickle choice. It is the soul of the country. It brings poor and rich equal, the educated and uneducated equal. Everyone is equal when they stand in the polling booth. Moreover, we, the Indians gained it after two hundred years of subjugation. It keeps the hope alive in the hearts of 140 crore of people. It is a sad decision. It is a lifeline. And, of course, it is the responsibility of the people. Sir, why I am telling much about the ballot paper! It is a hope for a better future, better life and better India. And the Election Commission is the entity which takes care of the elections, which gives power to the people of this country. And this Bill, the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office), jeopardises this sacred principle of the ballot and values that are part of the constitutional basic structure, such as the rule of law, the right to equality and fair election. It is yet another nail in the coffin of EC's autonomy by paving the path for appointment of a yes man as the as a Chief Election Commissioner to decide the fate of electoral democracy. Sir, the Objects and Reasons very clearly say; the hon. Supreme Court in the W.P. No. 104 of 2015, Anoop Baranwal Vs. Union of India, declared that the appointment of CEC and ECs shall be made by the President on the basis of an advice tendered by a Committee consisting of the Prime Minister, the Leader of the Opposition in the Lok Sabha and in case, there is no such leader, the leader of the largest party in the Opposition in Lok Sabha, having the largest numerical strength and the Chief Justice of India. This is very important, Sir.

[THE VICE-CHAIRPERSON (SHRIMATI JAYA BACHCHAN) *in the Chair.*]

It has been clarified in the aforesaid judgment that the said norm provided by the Supreme Court will continue to hold till a law is made by the Parliament. Now, an attempt is made here. We have brought a Bill to enact a law. But, the Bill does not

serve the purpose what the Supreme Court has directed. Hon. Supreme Court has said that there must be a committee comprising of the Prime Minister, the Leader of the Opposition in Lok Sabha and the Chief Justice of India, whereas this Bill provides for a Search committee and a Selection Committee. The Search Committee consists of only bureaucrats; the Secretary in the Government who may be in the office. They will comprise the Search Committee and they will give a panel of members, and the Bill provides that the Selection Committee shall comprise of the Prime Minister, the Leader of the Opposition or the Leader of the major party in the Opposition side, if at all, there is no Leader of Opposition and a Union Minister appointed by the Prime Minister. Then, everything is over. Further, it says that to select an Election Commissioner or a CEC, there need not be a unanimous decision, the majority will be enough. Then, the intention is very clear. Why have you brought this Bill? You can very well jolly well say that whatever the Government wishes can be done.

Madam, I would like to say one thing that this Government has brought all the Bills, legislated the laws which I have repeatedly said that do not forget that one day or the other you will be in the Opposition and you will face the wrath of all the legislations you have brought. They think that they will forever be in the Ruling Party and sit in the Treasury Benches. Sir, the Prime Minister and the Union Minister appointed by him along with the Leader of the Opposition, what the decision will be! Only what the Prime Minister and the Union Minister will decide; so, that choice will be there. There is one more thing, other than the members suggested by the Search Committee, the Selection Committee can appoint anyone else, then, what is the use of the Search Committee? But, there is a Search Committee consisting of bureaucrats only and the Selection Committee has the majority of the Government that is the Prime Minister and the Union Minister and moreover the Search Committee's recommendations will be thrown off and they will appoint any other person whom they wish. This all is really a farce. So, what is the purpose of a Bill which is going to become a law? The Chief Justice of India, why he is not a member, is a very big question and why you are bypassing him, only you have to say about it. What is wrong or what prevents you or objects you in having the Chief Justice of India as a member of the Selection Committee.

Madam, I would like to quote Dr. Ambedkar, it is very, very pertinent, everyone has to repeat it, no wonder because he is the architect of our Constitution. The episode reminds us on June 16, 1949, during the debates in the Constituent Assembly on a draft Article 289, now, Article 324 of the Constitution, dealing with the Election Commission, he precisely said, "There is no provision in the Constitution to prevent the appointing of either a fool, or a knave or a person who is likely to be under the

thumb of the Executive". It was said by none other than Dr. Ambedkar. A day earlier, on June 15th 1949, while moving the draft Article 289 in the Constituent Assembly for setting up an Election Commission, Dr. Ambedkar had observed, "Without any kind of dissent that in the interest of purity and freedom of elections to the legislative bodies, it was of the utmost importance that they should be freed from any kind of interference from the Executive of the day". But, now, the Executive is having the entire control. The Selection Committee can ignore the recommendations of the Search Committee. In winters, we cannot wear a shawl because of the mike. This has to be taken note of by the officials of the Parliament.

Madam, Article 324 of the Constitution provides that the power of superintendence, direction and control of elections to Parliament, State Legislatures, the office of the President of India and the office of Vice President of India shall be vested in the Election Commission. So, Election Commission is not just another entity in the country, this is the foremost. That is why it has chosen to be autonomous, without the intrusion of the Government or any other forces from outside. So, we expect a lot.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Mr. Siva, you have been given seven minutes.

SHRI TIRUCHI SIVA: I know that. ..(*Interruptions*).. I have been given the remaining time only.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): If I can, I can give you all the time.

SHRI TIRUCHI SIVA: The contravention of the Supreme Court judgment in this Bill, 'in the absence of a parliamentary legislation guiding the selection of the ECI members..', the five Judge Bench, I told earlier, the Supreme Court laid down the interim guidelines, the case challenges the Constitutional validity. Now, the recommendations have totally been overlooked by this Government through this Bill. In 1990, the Dinesh Goswami Committee had made suggestions to ensure independence of the ECI. Number one, removal process of CEC; and the administrative independence of the ECI; so also it has been repeatedly even in the Supreme Court in 1995, ECs are considered to be at par with the CEC in hierarchy. But now what is happening is that the CEC can remove the EC whereas CEC can be removed only by an impeachment. Along with all other things, the CEC who was

earlier on par with the Supreme Court Judge, by way of this Bill, he has been reduced to on par with Cabinet Secretary. ..(*Interruptions*).. Okay... The Election Commission is a *quasi judicial* body. It has a very big authority. So, that is a very big question. An Amendment has been moved. I think, if it is taken up, it will be very well appreciated. So also the global practices can be adhered to. The UK has a panel of Members of Parliament headed by the Speaker, not from one party only, invariably from all the other parties. So also, South Africa has got another one. So, we can follow those things. Even it is in America where it has been done. I would like to conclude only with one word, Madam. According to the Mr. S. Y. Qureshi, the former CEC, 'To tackle the major downside of the proposed Bill, which is a lopsided Selection Committee, was to make all its decisions unanimous.' That will resolve. But now it says that the majority of the Select Committee means, it is very, very clear that only the Prime Minister and the Union Minister, who is there, will be taking the decision. So, forming the Select Committee becomes meaningless and the Search Committee's recommendations, if they are ignored, that becomes redundant. So, this Bill when becomes a law paves way for constituting a Search Committee and the Select Committee. The Search Committee's recommendations become nothing and the Select Committee's decision will be unilateral. So, the purpose is not solved. So, I would suggest to the Government, I would urge the Government that what this Bill you have brought does not serve the purpose. Better to send it to a Select Committee for a better scrutiny; stakeholders will come and bring it back with suitable amendments and make it democratic, make it ethical, make it justifiable and that the Selection of the CEC and the Election Commissioners is transparent and appreciable. Thank you very much.

श्री राघव चड्ढा (पंजाब): महोदया, क्या बीजेपी भारत देश में निष्पक्ष चुनाव खत्म करना चाहती है, क्या भाजपा की सरकार लोकतंत्र की कोई अहमियत नहीं समझती, क्या भाजपा की सरकार के लिए संवैधानिक संस्थाओं की कोई अहमियत नहीं है, क्या भाजपा सरकार हर संवैधानिक संस्था को अपनी * बनाना चाहती है, क्या भाजपा सरकार सुप्रीम कोर्ट के फैसले का कोई सम्मान नहीं करती, उसकी कोई अहमियत नहीं समझती - ये कुछ सवाल हैं, जो बिल पढ़ने के बाद मेरे जेहन में आये। वे इसलिए आये, क्योंकि इस बिल के माध्यम से यह सरकार चुनाव आयोग को पूरे तरीके से अपने नियंत्रण में लेना चाहती है, यानी चुनाव आयोग पर पूर्ण कब्जा चाहती है।

मैडम, चुनाव आयोग के तीन सदस्य होते हैं - एक मुख्य चुनाव आयुक्त, यानी चीफ इलेक्शन कमिश्नर और दो अतिरिक्त इलेक्शन कमिश्नर्स। इनका चयन और नियुक्ति इस बिल के माध्यम से पूरे तरीके से सरकार के हाथों में आ जाएगी और वह जिसको चाहे - चाहे वह पार्टी का

* Expunged as ordered by the Chair.

शख्स हो, yes man हो, party man हो - जिस man को चाहे, उसको चुनाव आयुक्त बना सकती है।

हमारे देश के चुनावों में चुनाव आयोग की बड़ी महत्वपूर्ण भूमिका है। किसका वोट बनेगा, किसका वोट कटेगा - यह चुनाव आयोग तय करता है। किस तारीख पर चुनाव होगा, कितने चरणों में चुनाव होगा - यह चुनाव आयोग तय करता है। ईवीएम मशीनें कहाँ-कहाँ भेजी जाएँगी, उनका नियंत्रण, उनका मैनेजमेंट, उनका योग, उनका प्रयोग - ये सारी चीजें चुनाव आयोग तय करता है। इसीलिए चुनाव आयोग इस देश के फ्री एंड फेयर इलेक्शंस के लिए एक बड़ी महत्वपूर्ण संस्था है। I will mince no words. This Bill is going to destroy one of the few remaining independent institutions in India i.e., Election Commission and, thereby, dislodge free and fair elections from India. यह बिल तीन व्यक्ति या संस्था का अपमान है। पहला, यह सुप्रीम कोर्ट का अपमान है। क्यों? क्योंकि सुप्रीम कोर्ट की इसी साल 2 मार्च, 2023 को पांच जजों की संवैधानिक पीठ ने सर्वसम्मति से एक फैसला दिया और वह फैसला यह था कि सरकारी हस्तक्षेप, सरकार का कोई भी दखल चुनाव आयोग की नियुक्ति में नहीं होना चाहिए। यह खत्म करने के लिए हम एक समिति का गठन करते हैं। उस समिति के गठन से मुख्य न्यायाधीश को हटाकर, एक कैबिनेट मंत्री को डालकर उसका संतुलन बिगाड़ने का काम और सुप्रीम कोर्ट के फैसले को पलटने का काम इस सरकार ने किया, ताकि एक ऐसी व्यवस्था बन जाए, जिसमें जो शख्स ये चाहें, वही चीफ इलेक्शन कमिशनर बने। यह सुप्रीम कोर्ट की इंसल्ट इसलिए है, क्योंकि इसी साल के दिए गए संवैधानिक पीठ के सर्वसम्मति के दो फैसलों को इस सरकार ने सदन के भीतर बिल लाकर बदल दिया। उनमें से पहला था - दिल्ली सेवा बिल, जो आठ दिन के भीतर ऑर्डिनेंस लाकर और फिर सदन के भीतर बिल लाकर बदला गया और एक यह बिल, जो 2 मार्च, 2023 के सुप्रीम कोर्ट के फैसले को पलटता है और उस फैसले को पूरी तरीके से रिवर्स करने का काम करता है। मैं आपको यह बताना चाहूंगा कि यह सरकार इस बिल के माध्यम से एक प्रकार से सुप्रीम कोर्ट को खुली चुनौती दे रही है कि आपको जो फैसला देना है दीजिए, अगर हमें पसंद नहीं आएगा तो हम बिल लाकर उस फैसले को पलट देंगे। इस बिल के माध्यम से दूसरी इंसल्ट या अपमान चीफ जस्टिस ऑफ इंडिया का है। सुप्रीम कोर्ट का फैसला कहता है कि चयन समिति के तीन सदस्य होंगे -माननीय प्रधान मंत्री जी ,माननीय नेता प्रतिपक्ष ,यानी कि लीडर ऑफ अपोजिशन और थर्ड ,चीफ जस्टिस ऑफ इंडिया। इस बिल के माध्यम से सरकार ने इस तीन मेम्बरी समिति में से चीफ जस्टिस ऑफ इंडिया को हटा दिया और उनकी जगह एक कैबिनेट मंत्री को बिठा दिया। चीफ जस्टिस ऑफ इंडिया से इतना परहेज कि साफ तौर पर उन्हें इस समिति से हटाने के लिए इस बिल को लाया गया है! मैं सरकार को याद कराना चाहूंगा कि समय-समय पर इलेक्टोरल रिफॉर्म्स के लिए इस देश में कमिटियाँ बनीं और अधिकांश कमिटियों ने यह फैसला दिया ,यह रिपोर्ट दी ,यह सजेशन दिया कि समिति के भीतर चीफ जस्टिस ऑफ इंडिया ,यानी इस देश के न्यायमूर्ति को जरूर होना चाहिए ,चाहे वह तारकुंडे कमेटी हो ,दिनेश गोस्वामी कमेटी हो ,वोहरा कमेटी हो ,इंद्रजीत गुप्ता कमेटी हो ,जीवन रेड्डी कमेटी हो या फिर इसी सरकार के लॉ कमीशन की रिपोर्ट हो।

इस बिल के माध्यम से भाजपा सरकार तीसरी इंसल्ट एक ऐसे शख्स की कर रही है, जो भाजपा के संस्थापक थे, जो आज भी भाजपा के मार्गदर्शक हैं, जो भाजपा के भीष्म पितामह के

नाम से जाने जाते हैं। वह व्यक्ति, जो भारत देश के पूर्व उप प्रधानमंत्री रहे, यानी लालकृष्ण आडवाणी जी। मैडम, मैं राज्य सभा के पटल पर इस लेटर को रखूंगा। 2 जून, 2012 को माननीय लालकृष्ण आडवाणी जी ने उस समय के प्रधानमंत्री, डा. मनमोहन सिंह को पत्र लिखकर कहा कि चुनाव आयुक्त की जो भूमिका है, वह चुनावों में बड़ी महत्वपूर्ण है, उसकी नियुक्ति पर एक बहुत बड़ा प्रश्न चिन्ह लगा हुआ है और उसकी नियुक्ति सरकार के हाथ में नहीं होनी चाहिए। वे लिखते हैं, 'The present system whereby Members to the Election Commission are appointed solely on the advice of the Prime Minister does not evoke confidence in the people. Keeping these important decisions as the exclusive preserve of the ruling party renders the entire selection process vulnerable and open to manipulation and partisanship.' वे कहते हैं कि समिति पांच सदस्यों की हो, जो CEC का चयन करे, उनकी नियुक्ति करें, जिसमें प्रधानमंत्री हों, जिसमें लीडर ऑफ अपोजिशन, लोक सभा हों, जिसमें लीडर ऑफ अपोजिशन, राज्य सभा हों, जिसमें चीफ जस्टिस ऑफ इंडिया हों और कानून मंत्री हों। यानी उसमें दो सदस्य सरकार के, दो सदस्य अपोजिशन के और एक सदस्य न्यायपालिका के हों। यह समिति बड़ी अच्छी है। यानी आडवाणी जी भी चीफ इलेक्शन कमिशनर की स्वतंत्रता के लिए, चुनाव आयोग की स्वतंत्रता के लिए लड़ते रहे, लेकिन इन लोगों ने आडवाणी जी को भी उनके हक की, उनके अधिकार की बात नहीं दी। आज मैं सदन में दूसरी बार लालकृष्ण आडवाणी जी के हक की, उनके अधिकार की बात मांगने के लिए खड़ा हुआ हूँ। पहला तब, जब उन्होंने दिल्ली सेवा बिल पर कहा था कि दिल्ली को पूर्ण राज्य का दर्जा दिया जाए और आज तब, जब उन्होंने कहा कि चीफ इलेक्शन कमिशनर की नियुक्ति स्वतंत्रता से हो, निष्पक्ष तरीके से हो।

मैडम, मैं आगे तीन महत्वपूर्ण कारण बताना चाहूंगा, जिनके चलते इस बिल को मैं और मुझे लगता है कि समस्त विपक्ष अपोज करता है। पहला यह कि यह बिल पूरी तरीके से इल्लिगल है, गैरकानूनी है और वह इसलिए है, क्योंकि you cannot reverse a Supreme Court judgment without changing the very basis of it. यानी अगर आपको सुप्रीम कोर्ट के फैसले को पलटना है, तो सुप्रीम कोर्ट जिस फैसले को देते हुए जिस आधार को रेफर करता है, आपको उस आधार को बदलना पड़ेगा, आप सीधा फैसला नहीं पलट सकते। आप सीधे फैसला नहीं पलट सकते हैं, लेकिन इन लोगों ने सुप्रीम कोर्ट के फैसले की मूलभूत भावना को इस बिल के माध्यम से चोट पहुंचाने की कोशिश की है और चुनाव आयोग की निष्पक्षता को भंग किया है। दूसरा कारण यह कि क्यों यह बिल गैर कानूनी है, क्योंकि यह बिल basic structure of the Constitution के खिलाफ है। Basic structure of the Constitution है, free and fair elections, basic structure of the Constitution है, निष्पक्ष चुनाव और डेमोक्रेसी। अगर biased election commission होगा, तो चुनाव भी biased होगा। अगर गैर-निष्पक्ष तरीके से चुनाव आयुक्त चुना जाएगा, तो हिन्दुस्तान में चुनाव भी गैर-निष्पक्ष तरीके से होंगे। इसीलिए यह basic structure of the Constitution को भी पूरी तरह से violate करता है।

महोदया, मैं आगे दूसरा महत्वपूर्ण कारण बताना चाहूंगा कि क्यों यह बिल एक प्रकार से सरकार के हाथ में चुनाव आयोग का पूरा नियंत्रण दे देता है। Why is the Selection Committee biased in the favour of the Government? सुप्रीम कोर्ट ने कहा कि तीन मेम्बर्स की समिति होगी, जो तय करेगी कि चुनाव आयोग में कौन-कौन बैठेगा, जिसमें प्रधानमंत्री, Leader of the

Opposition और Chief Justice of India होंगे। इसमें से Chief Justice of India को बाहर निकाल कर एक कैबिनेट मिनिस्टर को इसमें डालकर इन लोगों ने selection समिति का पूरा नियंत्रण बिगाड़ दिया, जिसके चलते आज इस समिति में सरकार के पास दो वोट हैं, 2:1 से majority से सारे फैसले सरकार ले सकती है। इसमें सर्वसम्मति से फैसला नहीं लेना है, unanimity से फैसला नहीं लेना है, सरकार चाहे तो 2:1 से कोई भी फैसला ले सकती है। यानी कि सारा नियंत्रण - कौन मुख्य चुनाव आयुक्त होगा, कौन चुनाव आयुक्त होंगे - सरकार के हाथ में आ जाता है। यह एक ऐसी व्यवस्था बनाता है कि एक पार्टी मैन, एक यस मैन चुनाव आयुक्त बन सकता है, वह दिन भी दूर नहीं कि यदि कल भाजपा अगर चाहे तो सम्बित पात्रा को Chief Election Commissioner बना सकती है। 2:1 के रेश्यो से सम्बित पात्रा देश के Chief Election Commissioner बन सकते हैं। आप सोचिए कि अगर वे Chief Election Commissioner बन गए, तो यह कितना खतरनाक होगा!

महोदया, सुप्रीम कोर्ट के जजमेंट का पैरा 9 यह कहता है कि The Executive alone, being involved in the appointment, ensures that the Commission becomes and remains a partisan body and a branch of the Executive. The independence of the Commission is intimately interlinked with the process of appointment यानी कि सुप्रीम कोर्ट यह कहता है कि चयन का जो पूरा प्रोसेस है - पूरी तरह से इलैक्शन कैसे होंगे, फ्री होंगे या फेयर होंगे, वह तय करता है।

महोदया, सुप्रीम कोर्ट अपने पैरा 186 में highlight करते हुए यह कहता है, 'A person who is weak-kneed before the powerful cannot be appointed as the Election Commissioner. A person who is in the state of obligation or feels indebted to the person who has appointed him fails the nation and can have no place in the conduct of elections, forming the very foundation of our Democracy. An independent person cannot be biased. It is important that the appointment must be overshadowed even by a perception that a yes-man will decide the fate of the democracy and all his promises.' यानी कि केवल निष्पक्ष चयन होना ज़रूरी नहीं है, निष्पक्ष चयन जनता को नज़र आना भी ज़रूरी है। It must not only be done, it must be seen to be done. यह सुप्रीम कोर्ट कहता है।

महोदया, तीसरा कारण कि हम इस बिल को क्यों oppose कर रहे हैं, वह यह है कि जो proposed selection committee है, उसमें कोई checks and balances नहीं हैं। चेक्स एंड बैलेंसेज इसलिए नहीं हैं, क्योंकि सारे फैसले सरकार के पक्ष में होंगे, उसमें तो मंत्री सरकार के हैं, LoP को मात्र formality के लिए बैठाया गया है। इसमें एक प्रकार का फिक्स्ड मैच नज़र आता है। आप ही सोचिए कि तीन मेम्बर्स की समिति है, जिसमें माननीय प्रधान मंत्री जी हैं, मान लेते हैं कि हमारे सदन के LoP मल्लिकार्जुन खरगे जी हैं, उसके सदस्य हैं और third member कानून मंत्री, अर्जुन मेघवाल जी हैं। इनकी बैठक चल रही है, इसमें माननीय प्रधान मंत्री जी कहते हैं कि मैं रमेश नाम के शख्स को Chief Election Commissioner बनाना चाहता हूं, खरगे साहब कहते हैं कि मैं रमेश को नहीं, बल्कि सुरेश को Chief Election Commissioner बनाना चाहता हूं, तो क्या अर्जुन मेघवाल जी, जो इस सरकार के कानून मंत्री हैं, वे प्रधान मंत्री जी को कह सकते हैं कि

प्रधान मंत्री जी, रमेश ठीक नहीं है, खरगे साहब ने जिसको nominate किया है, सुरेश, मैं भी उसी के हक में वोट देता हूँ। उसका चयन हो, वह Chief Election Commissioner बने। वह तो हो ही नहीं सकता, तो सरकार जो चाहेगी, वही होगा। एक प्रकार से यह Chief Election Commissioner निष्पक्षता और स्वतंत्रता को खत्म करने का काम है। हमने बचपन में एक मुहावरा सुना था, 'जिसकी लाठी, उसकी भैंस'। इस बिल में यह पूरी तरह से सिद्ध होता है कि लाठी भी इनकी और इस कानून के माध्यम से भैंस भी इनकी।

मैं आपको एक और उदाहरण के माध्यम से समझाता हूँ। मान लीजिए कि भारत और ऑस्ट्रेलिया का क्रिकेट मैच हो रहा है, उस क्रिकेट मैच में अंपायर कौन होगा, वह एक तीन मेम्बर्स की समिति तय करेगी। उस समिति में एक ऑस्ट्रेलिया के कैप्टन पैट कर्मिस होंगे, दूसरे ऑस्ट्रेलिया के प्रसिद्ध प्लेयर डेविड वार्नर होंगे और तीसरे भारत के कप्तान रोहित शर्मा होंगे। अब ये तीन मेम्बरी समिति अगर किसी अंपायर को चुनेगी, तो वह अंपायर हमेशा ही ऑस्ट्रेलिया के साथ होगा, क्योंकि दो-एक का बहुमत ऑस्ट्रेलिया के साथ है, तो क्या निष्पक्ष मैच हो सकता है, क्या इंडिया independent मैच खेल सकता है। ऐसा ही कुछ इस चुनाव आयोग के गठन से इस बिल के आने के बाद इस देश में होने जा रहा है। मैडम, मैं आगे चलता हूँ। आप मुझे बोलने दीजिए।

...(व्यवधान)... मुझे बोलने दीजिए, मुझे disturb न करें। यह बिल तीन key tests पर फेल होता है, the test of independence, the test of neutrality and the test of constitutionality. ये हमारा constitutional imperative है कि देश में चुनाव आयोग निष्पक्ष हो, ताकि चुनाव निष्पक्ष हों। अगर चुनाव आयोग निष्पक्ष नहीं होगा, तो चुनाव निष्पक्ष नहीं होंगे और लोगों की आस्था इस लोकतंत्र से डगमगा जाएगी। मैं सरकार से कहना चाहता हूँ कि अगर सरकार सुप्रीम कोर्ट के इस फैसले को पलटना चाहती है, अगर सरकार चीफ जस्टिस ऑफ इंडिया को इस समिति से हटाने के लिए इतनी बेकरार है, तो कानून मंत्री जी, मैं यहां सुझाव लेकर आया हूँ। मेरे तीन सुझाव हैं। यदि आप इनमें से कुछ सुझाव स्वीकार कर लें, तो मुझे लगता है कि सारा हाउस एक आवाज़ में आपके इस बिल का समर्थन करेगा। मैं आपके लिए तीन ऑप्शन्स लाया हूँ। पहला option यह है कि चुनाव आयोग में कौन चीफ इलेक्शन कमिशनर होगा और कौन इलेक्शन कमिशनर्स होंगे, इसका गठन दो मेम्बर्स की समिति करे। जिसमें दो लोग प्रधान मंत्री और लीडर ऑफ अपोजिशन हों। ये दो मेम्बर्स सर्वसम्मति से, unanimity से फैसला लें, क्योंकि दो लोगों में majority नहीं हो सकती है, तो वे दो लोग सर्वसम्मति से फैसला लें। वे जो भी नाम तय करेंगे, हम सब मान जाएंगे। यह पहला option है। मैं सरकार को Option-2 देना चाहूंगा, जो लालकृष्ण आडवाणी जी ने दिया था। आप लालकृष्ण आडवाणी जी की बात मान लीजिए, मेरी मत मानिए। आपको आम आदमी पार्टी पसंद नहीं है, लेकिन अपने patriarch, founding father आपके पितामह भीष्म लालकृष्ण आडवाणी जी का फार्मूला ले लीजिए। आप पांच मेम्बरी समिति बनाइए और उसमें प्रधान मंत्री, कानून मंत्री, Leaders of the Opposition in Lok Sabha and Rajya Sabha and the Chief Justice of India हों - ये पांच मेम्बरी समिति एक निष्पक्ष चुनाव आयोग का चयन कर लेगी। अगर आपको ये दोनों options पसंद नहीं हैं, तो मैं आपको वह option बताना चाहूंगा, जो Constituent Assembly में Prof. Shibban Lal Saxena ने दिया था। वह था कि जो भी नाम यह चयन समिति तय करेगी, वे नाम सदन के भीतर लाए जाएं, और दो-तिहाई बहुमत से, लोक सभा और राज्य सभा से नाम पास हो जाए और वह आदमी Chief Election Commissioner बन जाए।

मैं सकारात्मक बहस कर रहा हूँ। मैं options लाया हूँ। इन तीनों options में से कोई भी option चुन लीजिए, तो सारे विपक्ष को मनाने की और एकजुट करने की जिम्मेवारी मेरी है। मैं अंत में अपनी बात समाप्त करने से पहले इतना कहना चाहूंगा कि यह बिल हमारे देश की democracy की, लोकतंत्र की * है। इस बिल के माध्यम से भाजपा democracy को हाईजैक करना चाहती है। And, I on behalf of the Aam Aadmi Party, vehemently oppose this Bill because this Bill will ensure that India which is today known as the mother of democracy will tomorrow, unfortunately, be known for mockery of democracy. Mother of democracy से mockery of democracy तक का सफर आप इस बिल के माध्यम से तय करने जा रहे हैं। मैं हाथ जोड़कर आपसे विनती करूंगा कि आप इस बिल को वापिस लीजिए। लोगों की देश के लोकतंत्र में बहुत आस्था है, उस आस्था से खिलवाड़ करने का काम मत कीजिए। आपका बहुत-बहुत शुक्रिया। जय हिन्द, जय भारत।

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Now, Dr. Amar Patnaik.

DR. AMAR PATNAIK (Odisha): Thank you, Madam Chairperson.

Madam, I will start with the Statement of Objects and Reasons which is mentioned in the Bill, and that would probably settle a lot of the apprehensions that have been expressed by the Members on my right. The hon. Supreme Court in the writ petition no.104 of 2015, Anoop Baranwal Vs. Union of India, declared that the appointment of CEC and EC shall be made by the President, so and so..., everyone has talked about it, but it has clarified in the judgment very clearly, and I want to reiterate it; the hon. Minister also mentioned it while introducing the Bill that this particular composition of the Prime Minister, the Leader of the Opposition and the Chief Justice of India shall continue until and unless a law is made by Parliament. And, unfortunately, a law was not made in Parliament. I used to belong to an organization, which is the Comptroller and Auditor General of India, which had a law in place — Duties, Powers and Conditions of Service of the CAG of India, 1971. So, I must congratulate the Government that, at least, a law has been made. In that law it has been mentioned how the appointments will be made, what will be the conditions of service and what will be the salary of the Chief Election Commissioner and the Election Commissioners.

Having said that, I will come to the second point. A lot of mention has been made about the independence. There are basically four issues — independence, interference and democracy being trampled upon. Basically, we have made these three arguments. Madam, the point is, there is something called a doctrine, which is

* Expunged as ordered by the Chair.

a doctrine of fallacy, ‘fallacy of causation’ that if this happens, this will happen; if this happens, that will happen; and this false causality is the main issue out here.

The Bill talks about the appointments, conditions of service, as I mentioned, whereas the transaction of business in the Election Commission has been mentioned at clause 16, Chapter 4, ‘Transaction of Business of Election Commission’. The transaction of business of an Election Commission is to conduct elections. The appointment process is a completely separate issue altogether. People after being appointed only, they will conduct the election, and 17(1) says that ‘the allocation of work will be done by majority’; 17(2) says, ‘how the business, a decision, will be done by majority, the other one was unanimity.’ Some people say that everything should be unanimous. If that is so, will the Election Commission not function if there is no unanimous decision during an election process? I think, that has to be thought about. There is this situation which says that you completely jeopardise the system just because there is no unanimity among the three members or four members or five members. So, I think, it is absolutely an unacceptable proposition which has been put forward by some of my colleagues.

Madam, I will come to the point relating to the issue that the process outlined in the Bill would inevitably lead to a loss of independence for the Election Commission is a fallacy. If such an assertion is held true, it would raise doubts about the efficacy of all Election Commissioners over the past 76 years, given the appointment of ECs has been within the purview of the Executive. Despite this, they have consistently operated independently. Madam, the Election Commission has overseen completion of 17 national and 317 State elections since Independence in 1947. Even under pressure from the Executive branch and governing parties to bow to the demands fed by their desire for electoral success, the ECI has managed to strengthen its autonomy from year-to-year, election-to-election. Let us not forget ‘1977.’ In the post-Emergency elections in 1977, the Opposition was apprehensive about the election process itself. Let me quote. Charan Singh wrote to Jai Prakash Narayan, both Opposition stalwarts in January, 1977, ‘Mrs. Gandhi is thinking of staging an election. I call it staging because conditions for a real election, free and fair will be lacking’, Raghavan 2017. I can lay it on the Table of the House. As it turned out, Congress was voted out of national office for the first time during these elections, and this was in 1977 when there was a single Chief Election Commissioner. The elaborate process was not there. Now when a process is being brought in through a regular Act of Parliament, I think, it is laudable, extremely praiseworthy to the Government that such a particular process is being brought in.

Madam, now, I will come to the second point relating to a Judge being a part of the process. Now if the Judge was a part of the selection process, what would happen? If the CJI is in the Committee to recommend appointments, it basically raises questions of violation of the doctrine of separation of powers, but I would like to refer to my colleague, hon. Jawhar Sircar, who said, what would happen if in the appointment of CAG, a particular CAG turned out to have a CBI case against him. Now, if this was the situation here, would not the CJI be party to a decision on which he may probably be required to take a decision in the judicial capacity? Would it not be a travesty of justice then? The CJI, being a part of the judiciary, cannot be a part of any selection process in this country.

Now, let me also remind you that under the RTI Act in which most of the States who are represented here have elected the Chief Information Commissioners and Information Commissioners, what the selection process is. The selection process involves the Chief Minister and other senior Ministers and the Leader of the Opposition. All of us have done that. Is all that has been done absolutely trash? Is it something which has been mired in subjectivity, in bias? Absolutely not. So, I think the process is fine and a person from the judiciary cannot be a part of the process.

Madam, I will now come to a point that has been raised quite a bit, which relates to the issue of conduct of elections. After 1989, with no party in a position to win a majority, the ECI faced a few structural constraints on its autonomy. I had mentioned, Madam, that right from the beginning, all Election Commissioners, whether it was a single member or a three-member Commission, have always upheld democracy by conducting free and fair elections. The motive has been to decrease money power, to increase transparency, to increase the number of people having access to the electronic voting machines, access to the booths and, in that process, the model code of conduct was brought out. The model code of conduct does not have any legislative backing. It is a unanimous decision between parties, and that is being enforced by the Election Commission. So, the Election Commission, 1989 onwards, has been holding this model code of conduct as the beacon of democracy and has been holding elections freely and fairly. Of course, there are always allegations and counter-allegations. But I can tell you that in a recent countrywide survey conducted by the Centre for Study of Developing Societies, Delhi, in 1996, after the 11th General Elections, the EC stood as the institution that was trusted the most by people followed by the judiciary, the State Government, local-government, and so on in that order. This was despite not having the advantage or not having the backing of a law to determine the conditions of service, appointments and salaries.

PROF. MANOJ KUMAR JHA: That was in 1996.

DR. AMAR PATNAIK: Yes, Sir. So, this was the opinion way back in 1996. And, since Prof. Manoj Jha has said this, let me say that 1977 is a watermark year in Indian democracy. Democracy was under threat. Even during that time elections were held and Mrs. Indira Gandhi's Government was thrown out. That shows that the Election Commission's transaction of business, which is covered under clauses 16 and 17 in Chapter IV, is not affected by the appointment process that is followed. The appointment process that is followed is something on which I said that the reference is to the RTI Act. Let me also inform the House that insofar as the appointment of the Comptroller and Auditor General of India is concerned, there is not even a Search Committee or a Selection Committee. And, in the Constituent Assembly, Dr. Ambedkar held that the CAG is a functionary that is even more important than the judiciary; still, selection is being done without a Selection Committee and still, it is performing to the best of its abilities in the service of the nation.

Madam, there is one point that I wanted to make in addition which is by way of suggestion. It is mentioned that the Election Commission's Conditions of Service, of Election Commissioner's transaction of business, 1991 is hereby repealed. Now, what happens to the existing Commissioners and the existing Chief Election Commissioner, who have been appointed by the previous Act? If this is repealed immediately, what happens to their conditions of service? I must thank the hon. Minister for the amendment at no. 37. I had a lot of things to say on that. Fortunately, this amendment has been brought and that is the sense of the House that his status should have been kept at the level of the Supreme Court of India. This has been restored. Only one correction here, hon. Minister -- it is written at page 2; it should be at page 3. Whatever has been mentioned from 43 to 45 is well made.

4.00 P.M.

The other query that I have is that the removal of the Election Commissioners has not been made at par with the removal of the Chief Election Commissioner. In this Amendment, the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court. The other Election Commissioners shall not be removed from office except on the recommendation of the Chief Election Commissioner. Does it mean that they would also follow the same procedure and also an additional recommendation from the Chief Election Commissioner or only the Chief Election Commissioner can remove? I

think this clarity has to be brought into this particular Amendment. The Supreme Court and the 1991 Act have already made it very clear that the Election Commissioners and the Chief Election Commissioner should be put on the same footing, except that the Chief Election Commissioner is first among the equals. If that is so, the removal procedure should also be ensured. There is one more point, and this is a very significant point which is related to the independence. The independence of an organisation like Election Commission is more linked to the way their conditions of service are governed. If the conditions of service can be changed after their appointment, if their appointment tenure can be reduced, if their salaries can be reduced and if their removal procedure can be changed, then it is an affront to their independence, not the appointment process. Therefore, in the appointment and conditions of service of the CAG also, it says that none of these can be altered to their detriment after the appointment has been made. Since that has also been maintained in the Bill, I have no hesitation in saying that there is no affront to the independence and interference in the election process that has been argued by many of my colleagues before me. Lastly, the Election Commission is not just a three-member body. It has already been stated eloquently by my colleague, Shri Jawhar Sircar. The whole world observes the election machinery in India, the largest democracy, and they are completely taken aback and surprised that such an election is held without any kind of a problem and transfer of power takes place. This is happening by the support of the machinery right till the municipality level and the panchayat level. If that is the case, how come the independence of only three members is important? Do you mean to say that the Judges of our judiciary are not independent? Do you mean to say that our District Magistrates, who actually are the Returning Officers during the elections, are not independent? Only these three people should be independent! I think this entire argument is fallacious and is based on absolutely an argument which is *non est* in law, I would say. I would, therefore, end by saying that I support the Bill and I would request the hon. Minister to bring in these clarifications. I would thank him again for bringing him at par with Supreme Court Judge and also would request that their removal procedure should be made equal, in which case their independence would actually and truly be preserved. Thank you.

SHRI G.V.L. NARASIMHA RAO (Uttar Pradesh): Madam, Chairperson, I have a point of order. There are some offensive expressions which have been used in the speech of some Members. I did not want to interject in between. Particularly, my reference is to ...*(Interruptions)*...

THE VICE-CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Can you mention the Rule, please?

SHRI G.V.L. NARASIMHA RAO: This is Rule 238(vii). Is it okay? Let me first take Rule 261. I would like the offensive expressions to be expunged. Term like * was used for a constitutional body. The expression '*Kabza on Chunav Aayog*' was used. These are highly objectionable words. Then, another expression, ' * of democracy ' was used.

THE VICE-CHAIRPERSON (SHRIMATI JAYA BACHCHAN): You are a bit late. You should have objected before Dr. Amar Patnaik started. He never uses such words. Whoever spoke before him, you should have objected at that time. Now, Subhas Chandra Bose Pilli.

SHRI G.V.L. NARASIMHA RAO: The hon. Member, Shri Raghav Chadha, had used these expressions. I would like these expressions to be expunged.

THE VICE-CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Mr. Bose please. ...*(Interruptions)*...

SHRI SUBHAS CHANDRA BOSE PILLI (Andhra Pradesh): [†]Honorable Vice-Chairperson Madam, I thank you for giving me the opportunity to speak on this Bill which provides for the appointment of Chief Election Commissioner (CEC) and Election Commissioners (ECs). Respected Madam, on behalf of my party, YSRCP, I support this Bill. Our country is the largest democracy in the world. Conducting free and fair elections is an integral part of our country as provisioned, to the institutions, by the Constitution. The framers of our constitution, in their wisdom, gave the responsibility and duty to the Election Commission to conduct free and fair elections. This Bill provides for rules and procedures for appointing the Chief Election Commissioner and Election Commissioners to the Election Commission and we are discussing this Bill in this House today. Under the chairmanship of the Prime Minister, Leader of Opposition in Lok Sabha i.e. leader of largest Opposition party in Lok Sabha and one Minister as nominated by the Prime Minister from the Union Cabinet, will comprise the Selection Committee, which will recommend names for appointment

* Expunged as ordered by the Chair.

[†] English translation of the original speech delivered in Telugu.

of Chief Election Commissioner and Election Commissioners to the President of India. The President will issue orders appointing Chief Election Commissioner and Election Commissioners based on the recommendations made by this Selection Committee; this is the aim of this Bill. This Bill also provides for a Search Committee to be constituted to select the eligible candidates. To safeguard the Democratic Rights, conducting free and fair elections is the responsibility of the Election Commission. Respected Madam, this election process will instill more trust in the people and people will protect the Institution of Election, this is the main purpose of this Bill. With these observations, I support this Bill.

PROF. MANOJ KUMAR JHA: Madam, I was listening to the translation. I would like to say that the quality of translation was not good. For instance, 'Search Committee' was referred to as 'Research Committee'. I just thought I should share that.

THE VICE-CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Even I realised that. You are right. Now, Shri A.D. Singh.

SHRI A.D. SINGH (Bihar): Thank you, Madam Vice-Chairman, for giving me the opportunity to participate in this discussion. I am a little surprised by the results of elections which were held recently. Elections in Karnataka were held on 10th and the result came on 13th, just after three days. Elections in Telangana were held on 30th November and result was declared on 3rd December. In both the places, the ruling party lost and wherever there was a gap of a month or half-a-month, the results were different. I am confused and perplexed by this. So far as the independence of the Election Commission vis-à-vis the Executive is concerned, I would like to say about things happened in recent times. There are two things. I am happy that a particular Member compliments the Congress Party for free and fair elections in 1977 but recently we saw the way one of the Election Commissioners was hounded and he had no option but to resign and go to Manila or some other place. The Constituent Assembly Members were concerned about the need to ensure the independence of the Election Commission. B.R. Ambedkar said, "In order that elections may be free in the real sense of the word, they shall be taken out of the hands of the Government of the day and conducted by the independent body called Election Commission." The need to have an independent body was emphasized in courts in number of cases. In T.N. Seshan v. UOI & Others, it was observed that there could be no two options that free and fair elections to our legislative bodies alone would guarantee the growth of a healthy democracy in the country. The proposed Bill jeopardises this

fundamental principle and in today's political context where issues are being raised and allegations are levelled on the Election Commission like never before, it will be another nail in the coffin of the Election authorities.

If the Government is just going on reversing the decision of the Supreme Court in this matter, after the five-Judge Bench judgement -- I do not want to repeat what hon. Members have said -- I think, it will be a very sad day in the history for the democracy of India. Some colleagues are talking about emergency. Today, we have undeclared emergency, which is worse than the one which was imposed by Madam Gandhi. The way, the Selection Committee is supposed to select the Election Commissioner, there is no point that we should have a three-Member committee. Let the hon. Prime Minister select a person. With regard to what my colleague from the Biju Janata Dal said about the CAG and other organisations, I can personally tell him how things work. I do not want to mention things in the House because it will not be good.

In the end, I would say that I vehemently oppose this Bill. Madam, our forefathers have given us a Constitution, which really strikes a balance between judiciary, legislature and executive but the way we are going, most of the institutions are being deprived of their powers and whatever the present ruling Government says they behave like that. I vehemently oppose the Bill. Thank you.

THE LEADER OF THE HOUSE (SHRI PIYUSH GOYAL): Madam, it is wonderful to see you on the Chair.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): It is a temporary arrangement.

SHRI PIYUSH GOYAL: When I saw it on the television in my room, it was coming across as very elegant and very distinguished. Very privileged to see you holding the Chair today.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Thank you.

SHRI PIYUSH GOYAL: Madam, I just want to share one thing with my good friend and esteemed colleague, Mr. Singh. He made a sweeping comment that there is an emergency and it is worse than the emergency of that time. This comment is coming from a person from Bihar -- the land of Lok Nayak Jayaprakash Narayan -- which fought to maintain the unity and integrity of India, which is the repository of knowledge

in this country, which stood up for high principles and values and fought against the emergency so much so that thousands of political workers, for no fault of theirs except that they opposed the then Government, with no allegations of corruption, no allegations of misdemeanour of any sort, were put behind bars indiscriminately across the country. Probably thousands from Bihar also were there. Many, who today are in the JDU or in the RJD or all the various offshoots -- as they are so many, it is difficult to remember their names also -- were a part of the struggle against the Emergency, which was totally unconstitutional, unwarranted and an attack on democracy in the country! ..(*Interruptions*).. To make such a comment today, when we are all, with great freedom, able to speak in this House, where there is freedom of democracy, freedom of speech, media is vibrant, judiciary is protecting the interests of the people of India, where there is complete freedom across the country and the only people behind the bars are the criminals, are the people in whose houses you find Rs. 353 crores and counting illegally stashed away money, where the only people behind the bars are murderers, criminals, land mafia, sand mafia, liquor mafia, arms dealers, defence dealers.. ..(*Interruptions*)..

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Respected Leader of the House, ..(*Interruptions*).. Excuse me. ..(*Interruptions*)..

SHRI PIYUSH GOYAL: In this day and age, comparing those days of emergency with today is a blot on the very thinking of your party and the esteemed Member of Parliament.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Thank you, the Leader of the House. But if you are talking about freedom, I think he used his freedom. ..(*Interruptions*).. आप बैठ जाइए। ...(*व्यवधान*)... Let's now ..(*Interruptions*).. नहीं। उन्होंने कह दिया, आपने कह दिया। अब आप बैठ जाइए।

प्रो. मनोज कुमार झा: मैडम, एक मिनट। What I wish to convey is that we saw enough of freedom yesterday. That was on display by the gesticulation, by the body language. What reference he made was on a metaphorical sense. If it is not made, what kind of democracy it is. You make new buildings, but there is no idea of democratic discourse. Democracy is never there, Madam. If J.P. were alive today, counterfactually speaking, he would have stitched an alliance of all progressive forces against their kind of politics. Thank you, Madam. ..(*Interruptions*)..

SHRI A.D. SINGH: He is talking of a long list of leaders of the freedom struggle. There is not a single leader from Pandit Nehru to Sardar Patel to Gandhi, who did not stay in my House in Patna and Muzaffarpur. So, let them not teach me what democracy is. And let me tell you, one of the Russian big oligarchs had come to meet me a month back. While having dinner in my house, he said, “Mr. Singh, you are more unsafe than me in Russia.” So, let anybody not teach me what democracy is. I have already been to jail for not being a criminal. I should have also taken Rs. 10,000 crores from the banks and stayed in London. But I decided that I would fight here, whether you put me in jail again, I am not bothered.

THE VICE- CHAIRPERSON (SHRIMATI JAYA BACHCHAN): Now, Dr. Brittas.

DR. JOHN BRITTAS: Madam, there is a tragic paradox that is in full display. You were not here yesterday. Yesterday, the Government was praising the Supreme Court for upholding the abrogation of Article 370. If at all an alien had come from some other planet, he would have been completely taken aback by the way the Government was paying respect to the Supreme Court.

(MR. CHAIRMAN *in the Chair.*)

If at all that alien continued for a day more, he would have been shocked to see that there is no relevance for a Supreme Court five-judge judgement. Sir, this is the classic somersault that is happening in the House. The P.M. has been exhorting everybody, including my dear friend Agrawal ji, to make sure that the weddings are done in India. Sir, there is a marriage of convenience that is happening here now. You want it to be a convenient proposition to make sure that the Election Commission is controlled fully by the Government of India. Sir, it is an absolute fact that the intention of the Government is to circumvent the Supreme Court verdict. What was the spirit and letter of the Supreme Court verdict? It was to make the Election Commission independent, impartial and neutral. But the Bill, which you have brought forward, is contrary to the spirit of independence and fairness. I thought that the Government would be willing and yielding for comprehensive electoral reforms. I am afraid we are not seeing the elephants that are roaming around in our drawing room.

MR. CHAIRMAN: Dr. John Britass.

DR. JOHN BRITASS: Sir, there are two pillars of the electoral practice now. One is money power and the other is muscle power. I would have reached out to the Government if at all there were comprehensive electoral reforms that were being brought forward so that it would have cleansed the political arena. Now with this Bill that is being passed, I would say that let us close down Nirvachan Sadan; let an outhouse of the Minister be used for accommodating the Election Commission. Why do we want to waste time, energy and money? That is not required.

Sir, the Supreme Court had said that if at all there is no independence for the Election Commission -- Mahesh Jethmalani ji, I invite your attention - it would lead to disastrous consequences. What does that mean? This Bill is inviting disastrous consequences because you are making the Election Commission dependent, an appendix of the Executive. Precisely that is your intention.

Sir, even the Search Committee the hon. Minister is going to head. Even if the Search Committee decides five or six people, the Selection Committee can pick up somebody outside the Search Committee. They should have been a little more magnanimous towards the Screening Committee. They should at least respect the Screening Committee. Why is it that even the Screening Committee has been treated like that without any courtesy? Clause 8(2) says that the Selection Committee may also consider any other person than those included in the Panel by the Search Committee. It defeats the purpose of the Search Committee.

Sir, Electoral Bond is another contentious issue. It is with the Supreme Court, so I don't want to comment on it. But the Home Minister had said about era of clean politics and claims were made that it will lead to transparency and accountability in political funding while preventing future generation of black money. The same Electoral Bonds are opaque. That is the contention of the general public. According to me, too. So, the scheme is opaque, undemocratic and legitimizes corruption by the ruling dispensation.

Sir, I want to quote former Secretary Subhash Chandra Garg. He was there when Electoral Bond Policy was being brought in. He said, "Why do businesses or companies donate bonds? Because they are hoping for some favour or seeking to protect their businesses." This is what the former Finance Secretary, who was instrumental and part of that team which brought Electoral Bonds, said. What does that mean?

How can we curb money power and muscle power? According to a study by the CMS, the money spent in the Lok Sabha elections in 2019 saw a growth of seven times from 1998 Lok Sabha polls. At that time, it was deemed to be Rs.9,000 crore. In 2019, the study says, at least Rs.60,000 crore have been dumped for electioneering

by the political parties and the major chunk would have been spent by Shri Piyush Goyal's Party. Now in 2024, it is going to double. So any legislation that is being brought forward should be to cleanse the political system, electoral system. Instead of that, you want to make it more opaque rather than cleansing the system. We all know the story of Mr. Ashok Lavasa. (*Time-bell rings.*) What was his fault? Sir, everybody got 3-4 minutes extra.

MR. CHAIRMAN: Please conclude.

DR. JOHN BRITTAS: Yes, Sir, I am concluding.

MR. CHAIRMAN: You have made significant points. Conclude now.

DR. JOHN BRITTAS: Why was an honourable person, Election Commissioner, ejected from his post? Your election department, that is, ED, is very active. There were raids conducted at his house, at his wife's house and son's house. He was ejected. (*Time-bell rings.*) And it is a fact that even the big tech companies are being used to invade into the privacy which has got cascading effects on elections. Sir, I have one more thing. Why does it vitiate in the electoral arena? It is hate and hate. So, in fact, we go down in manufacturing, the manufacturing of fake news is very robust in this country. (*Time-bell rings.*)

MR. CHAIRMAN: Now, Shri Ram Nath Thakur.

DR. JOHN BRITTAS: Sir, I am winding up.

MR. CHAIRMAN: You have made your points.

DR. JOHN BRITTAS: Sir, these are the serious questions which this Parliament and this House needs to look into. Thank you, Sir.

MR. CHAIRMAN: Okay. You have made good points.

Hon. Members, I have got input from various Members. We will have voting at 6 o'clock. That is the sense of the House. And to have it at 6 o'clock, we will give the floor to the hon. Minister at 5.30. Now, Shri Ram Thakur.

श्री राम नाथ ठाकुर (बिहार): सभापति महोदय, आपने मुझे इस बिल पर बोलने का मौका दिया, मैं आपके प्रति कृतज्ञता ज्ञापित करता हूँ। मैं इस बिल के विरोध में बोलने के लिए खड़ा हुआ हूँ। कल सुप्रीम कोर्ट के decision पर सत्ताधारी लोग खुशी मना रहे थे, बोल रहे थे, आज क्या हो गया कि सुप्रीम कोर्ट के decision, उसके आदेश और उसके निर्देश के विरुद्ध बोल रहे हैं। मुझे आश्चर्य हो रहा है। महोदय, सत्ता पक्ष के प्रथम वक्ता ने जेडीयू और आरजेडी के बारे में कहा कि ये लोग पारिवारिक गठबंधन के हैं, परिवार के लोग पार्टी चलाते हैं। मैं जनता दल युनाइटेड का एक साधारण सदस्य होने के नाते उन्हें बताना चाहता हूँ कि नीतीश कुमार जी के परिवार का कोई आदमी राजनीति में नहीं है।...(व्यवधान)... आप सीनियर मेम्बर हैं, मैं आपके बीच में नहीं बोला।

श्री सभापति: ठाकुर साहब, आप बहुत अनुभवी हैं, दो अनुभवी लोग जब बात करते हैं, तो जवाब नहीं देते हैं।

श्री राम नाथ ठाकुर: सभापति महोदय, मैं बहुत चिंतित हूँ। मेरा 58 वर्ष का राजनीतिक अनुभव है। मैं देखता हूँ कि स्कूल्स में हैड मास्टर की क्या स्थिति हो गई है, वाइस चांसलर की क्या स्थिति हो गई है। वही चीज़ मैं आज देख रहा हूँ कि पोलिटिकल लोगों के बीच में इलैक्शन कमीशन को लेकर एक भरोसा था, आस्था थी, उसके बारे में हम क्या सोच रहे हैं, हमारा राजनीतिक भविष्य क्या होगा? मैं यह किसी दलगत भावना से नहीं बोल रहा हूँ, मैं एक पोलिटिकल व्यक्ति होने के नाते बोल रहा हूँ कि आप इस पर सोचिए, विचार कीजिए और शोध कीजिए, फिर बिल लाने की कृपा कीजिए। मेरे से पूर्व वक्ताओं ने कहा था कि जो अम्बेडकर जी की जो सोच थी, उनका जो शोध था, उन्होंने अपने जिन विचारों से संविधान को प्रकाशित करने का काम किया था, उस पर हम विचार क्यों नहीं कर रहे हैं? शोध क्यों नहीं कर रहे हैं, उस पर अमल करके हम उस पर चलने को कोशिश क्यों नहीं कर रहे हैं? हम Supreme Court के निर्देश का पालन क्यों नहीं कर रहे हैं? यह हमारी सोच है। महोदय, आपको याद होगा कि एन.टी. रामा राव की सरकार गिर गई थी। Governor ने उनको हटा दिया था। आंध्र प्रदेश के मुख्य मंत्री सभी एमएलएज़ के साथ बड़े विश्वास के साथ राष्ट्रपति से मिलने दिल्ली आए थे। एक आस्था थी कि राष्ट्रपति हमें न्याय देंगे, विचार देंगे और हम उस पर चलने का काम करेंगे। एन.टी. रामा राव को न्याय मिला और उस पर उन्होंने काम करने का काम किया।

MR. CHAIRMAN: Please conclude.

श्री राम नाथ ठाकुर: सभापति महोदय, मैं आपके माध्यम से सरकार से निवेदन करना चाहता हूँ कि चयन समिति के बारे में हमने देखा है कि कोई भी आदमी चयन समिति में कहता है कि हम घर के guardian हैं और हम जो कहेंगे, वही हमारे परिवार के सदस्य कहेंगे। यदि एक आदमी विरोध में चला गया, तो उसको समझाएंगे कि हम head हैं, हमारी बात मान लीजिए। मैं आपको एक कहानी बताता हूँ। 20 बरस पहले मेरे और मेरी पत्नी के बीच विचारों को लेकर कुछ मतभेद हो गया। उसने गुस्से में कह दिया कि मैं मायके चली जाऊंगी।

श्री सभापति: कब, बीस साल पहले कहा?

श्री राम नाथ ठाकुर: वह 20 मार्च, 2020 को मर गई। वे बार-बार कहती थीं कि मैं मायके चली जाऊंगी। हमें परिवार चलाना था। उन्होंने गुस्से में कह दिया कि मैं मायके चली जाऊंगी। फिर मैंने कहा कि ठीक है, तुम मायके चली जाओ, मैं बाल-बच्चों को ननिहाल भेज देता हूं और मैं ससुराल चला जाता हूं। फिर वही स्थिति हो जाएगी। आप जो कर रहे हैं, वह क्या कर रहे हैं?...**(व्यवधान)**...

श्री सभापति: ठाकुर साहब, ठाकुर साहब।

श्री राम नाथ ठाकुर: आप क्या कर रहे हैं? इससे...**(व्यवधान)**...

MR. CHAIRMAN: Hon. Member. ...**(Interruptions)**... प्रमोद तिवारी जी कह रहे हैं कि यह घर-घर की कहानी है। मैं प्रमोद तिवारी जी से असहमत हूं। मुझे आज तक ऐसी धमकी नहीं मिली है।

श्री राम नाथ ठाकुर: आप भाग्यवान हैं। आप भाग्यवान हैं कि आपको ऐसी परिस्थिति नहीं मिली। मैं आपसे निवेदन करना चाहता हूं कि आप सरकार को कहें, सरकार सोचे और मैं सरकार से निवेदन कर रहा हूं कि आप इस बिल को वापस लीजिए। ...**(समय की घंटी)**... इसको वापस ले लीजिए। सर, मैंने तो अभी शुरू किया है।

श्री सभापति: आपके seven minutes हो गए हैं।

श्री राम नाथ ठाकुर: सर, दूसरी बात मैं यह कहना चाहता हूं कि चुनाव के संचालन में निष्पक्षता और अखंडता सुनिश्चित करने के लिए चुनाव आयोग की स्वतंत्रता महत्वपूर्ण है। चयन प्रक्रिया में Executive का कोई भी कथित प्रभाव बिना पक्षपात के अपनी जिम्मेदारियों को निभाने की चुनाव आयोग की क्षमता के बारे में चिंताएं पैदा कर सकता है - यह Supreme Court का verdict है।

सभापति महोदय, मैं आपसे निवेदन करना चाहता हूं कि यह बहुत महत्वपूर्ण बिल है और इसको आप ऐसे हल्के में न लें। ...**(व्यवधान)**... मैं यह निवेदन करना चाहता हूं कि इस बिल को सेलेक्ट कमेटी में भेजा जाए।...**(व्यवधान)**...

MR. CHAIRMAN: Thank you. ...**(Interruptions)**... Prof. Ram Gopal Yadav. ...**(Interruptions)**... Five minutes but since the time has been limited to 5.30 p.m., four minutes. ...**(Interruptions)**... Jayaji knows the difficulty of this Chair.

प्रो. राम गोपाल यादव (उत्तर प्रदेश): सर, मैं केवल दो-तीन बातें कहना चाहूंगा। एक तो यह है कि संविधान निर्माताओं ने संविधान के माध्यम से संसद की सर्वोच्चता की बात कही थी और कार्यपालिका, न्यायपालिका, इन सबको उनकी अपनी सीमाओं में रहने के लिए कहा था।

न्यायपालिका उस स्थिति में, जब कोई संसद के बनाए हुए कानून को चैलेंज करे, तो जूडिशियल रिव्यू के अधिकार का प्रयोग करके, उस पर अपना फैसला दे सकती है। लेकिन न्यायपालिका थर्ड चैम्बर का रूप नहीं ले सकती, जैसे कभी अमेरिका की संसद को कहा गया था। सर, राष्ट्रपति ने कुछ बनाया, उन्होंने रद्द कर दिया। फिर संसद ने कानून बनाया, इस तरह का झमेला वहां पर हुआ था, लेकिन ऐसी स्थिति हमारे यहां पर नहीं है। सर, मैं अपनी बात पर आने से पहले एक बात अवश्य कहना चाहूंगा कि बहुत ज्यादा न्यायपालिका पर rely न करें। *

श्री सभापति: माननीय राम गोपाल जी, माननीय राम गोपाल जी, एक मिनट।

प्रो. राम गोपाल यादव: सर, आप मुझे एक मिनट बोलने दीजिए।

श्री सभापति: न्यायपालिका के न्यायिक आचरण पर टिप्पणी करना...

प्रो. राम गोपाल यादव: सर, मैं न्यायपालिका के खिलाफ नहीं कह रहा हूं।

श्री सभापति: नहीं, नहीं। न्यायपालिका के आचरण पर टिप्पणी नहीं हो सकती है।

प्रो. राम गोपाल यादव: जब न्यायपालिका संसद के खिलाफ जा सकती है, तो क्या मैं संसद के अंदर कोई बात नहीं कह सकता हूं?

श्री सभापति: नहीं, नहीं। वह नहीं। आपने पहले मौलिक बात कही, दमदार बात है। हम सब न्यायपालिका की भी इज्जत करते हैं, कार्यपालिका की भी करते हैं और उम्मीद करते हैं कि न्यायपालिका, कार्यपालिका और विधायिका सशक्त रूप से अपने क्षेत्र में काम करेंगे।

प्रो. राम गोपाल यादव: सर, कर कहां रही है! अगर करे, तब तो ठीक है।

श्री सभापति: लेकिन एक विशेष मामले को लेकर, किसी व्यक्ति का नाम लेकर मैं आपसे अनुरोध करूंगा, आग्रह करूंगा कि..

प्रो. राम गोपाल यादव: सर, ज्युडिशियल अकाउंटेबिलिटी का बिल संसद ने सर्वसम्मति से पारित नहीं किया था?

श्री सभापति: वह मौलिक मुद्दा है। आप उस पर बोलिए।

* Expunged as ordered by the Chair.

प्रो. राम गोपाल यादव: न्यायपालिका ने जनता की इच्छा और संसद की परवाह नहीं की पर जब उनके ऊपर आया तो परवाह की, औरों के ऊपर चाहे जहां तक हस्तक्षेप करने लगेंगे! लेकिन मैं यह कहना चाहता हूं कि यह सब व्यक्ति के व्यक्तित्व पर निर्भर करता है। टी.एन. शेषन का ऐसा व्यक्तित्व था, उन्होंने लोगों को बताया कि इलेक्शन कमीशन क्या होता है, लेकिन अब इलेक्शन कमीशन ऐसा है कि सामने लोग टी.वी. पर देख रहे हैं कि पुलिस वोट नहीं डालने दे रही है, पुलिस लोगों को मार रही है, हम रिप्रजेंटेशन दे रहे हैं, लेकिन वे आंखें बंद किए हुए बैठे हुए हैं। आपने हर जगह पर देखा होगा, आपने रामपुर में देखा होगा, सब लोगों ने देखा है। मैं इलेक्शन कमीशन से जाकर मिला था, लेकिन कमीशन ने अपनी आंखें बंद कर लीं। सर, इलेक्शन कमीशन की यही छूटी नहीं होती है — अभी वोट बढ़ रहा है, वोट कट रहा है, बूथ चेंज हो रहे हैं, आधा मोहल्ला यहां लगा है, आधा मोहल्ला तीन किलोमीटर दूर लगा है। कुछ नाम ऐसे होते हैं, जिनको जाति और धर्म से पहचान लिया जाता है, उनके नाम के आगे लाइन खींचते चले जाते हैं। करीब 50 हजार वोट काट दिए, मुरादाबाद में कोई सुनने वाला नहीं है, क्योंकि नाम से मुसलमान वोट पहचान लिया जाता है। जिसका चाहे नाम काट दो, कोई सुनवाई नहीं है। अगर इलेक्शन कमीशन में निष्पक्ष लोग नहीं होंगे, अगर वे किसी की बात नहीं सुनेंगे, तो डेमोक्रेसी का क्या मतलब रह जाता है! डेमोक्रेसी का अर्थ ही यह है कि लोग अपनी इच्छा से, अपनी ईमानदारी से free and fair elections के माध्यम से अपने प्रतिनिधियों को चुन सकें, अपने ऊपर शासन करने के लिए सरकार को चुन सकें। ...**(समय की घंटी)**...

MR. CHAIRMAN: Thank you. Thank you, Prof. Ram Gopal Yadav.

प्रो. राम गोपाल यादव: सर, लेकिन ऐसा हो नहीं रहा है, इसलिए मैं शासन में बैठे हुए लोगों से कहना चाहता हूं कि आप जो कानून ला रहे हैं, वह वैसा ही बनेगा। आपकी नीयत पर भी लोगों को संदेह है, लेकिन ऐसे लोगों को इलेक्शन कमीशन में nominate कीजिए, जिनकी अपनी अंतर आत्मा हो, जो अन्याय न होने दें, धन्यवाद।

MR. CHAIRMAN: Now, Dr. K. Laxman. ...*(time-bell rings.)*... Madam, you have been here. I have given him extra time.

DR. K. LAXMAN (Uttar Pradesh): Thank you Mr. Chairman, Sir, for giving me this opportunity to speak on this Bill on appointment of Election Commission.

MR. CHAIRMAN: Madam, you have been very kind to everyone. You have been very kind. Everyone has appreciated it. So your sitting here has been a great challenge to me.

DR. K. LAXMAN: I stand here in support of this Bill. *Bharat*, is supposed to be the largest democratic country in the world and the mother of democracy. Sir, the

appointment of Election Commissioner, the matter has been brought under the purview of the Supreme Court. The Supreme Court has made it very clear about a temporary Committee constituting the Prime Minister, the LoP and the CJI until a law is enacted in the Parliament. But unfortunately, our friends, colleagues started saying that CJI has been removed from this three-member Committee. मैं हमारे लॉ मिनिस्टर को बता देता हूँ for including apart from the Prime Minister, the LoP, the Leader of the Opposition and a Union Minister. Subject to correction, for LoP, I don't think there is opposition status even to the present Congress party in the Lok Sabha. In spite of that, our hon. Minister is liberal enough to include the largest party's leader also in the three-member Committee. I am sensing that even in future also, it may happen. हमारे मंत्री महोदय भविष्यवाणी भी जानते हैं, इसलिए included the leader of the party which has got the highest number also. ठीक है, आपका समय भी आएगा।

[THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA) *in the Chair.*]

So, it is no way a violation of the judgement. They should introspect first. It is purely a meritless criticism against this Government on the appointment of the Election Commissioner. We all should introspect as to what happened all these years, what was the methodology adopted in appointing the Election Commission at the national level and even at the State level and how these Election Commissioners were functioning. I really appreciate one of our colleagues from BJD. They start becoming suspicious even on the Returning Officers; this democracy would not have survived without that. I ask about the appointment of the Chairperson and staff of the tribunals, like the National Green Tribunal. Who is the authority appointing them? It is the same Central Government for the last many decades. Even the National Human Rights Commission where the Prime Minister is supposed to be the Chairperson along with the ministers concerned. These people never brought a holistic law for regulating the appointment of CEC and Election Commissioners; there was a policy paralysis, though they were in power for more than six decades. So, when the matter has been brought to the Supreme Court, the Government has tried its best to make a fillip. One of the comments made by the former Chief Election Commissioner, Shri O.P. Rawat is, and I quote, "The issue before the Supreme Court was not who will be on the Selection Committee. It was that as to why did you, the earlier Government, not enact a law as promised or laid down in the Constitution? So, you make a law; until then, our suggested panel will select CEC and ECs. In the Constitution, the Parliament is the supreme law-making body and the Supreme Court has the power to judicially review the Constitution. So, I don't think there is any issue in this." This is

the statement given by Shri O.P. Rawat, the former Chief Election Commissioner. Sir, people have started showing much respect and regard towards the Supreme Court judgments. I fail to understand what happened when there was a judgement by the Supreme Court on Shah Bano case. What made the Government to bring an Ordinance? Was it not a political motive, superseding the Supreme Court judgement? Even then, when Mr. Seshan was the Chief Election Commissioner, he was the man instrumental in bringing the electoral reforms right from implementing strictly the model code of conduct. And the same, the Congress Government in 1993, have added two more persons to belittle T.N. Sheshanji. Mr. Gill and Mr. G.V.G. Krishnamurthy were added to just belittle the powers of T.N. Sheshanji. This is the attitude of the then Government, Congress Government and they will speak of democracy and they speak of internal democracy. And even in 2009, the Chief Election Commissioner N. Gopalaswami had recommended the removal of the person called Navin Chawla. Earlier, our Member has told who is the Secretary for the former Prime Minister! So, sensing that he is in a partisan attitude, working as a member in the Election Commission, Gopalaswami recommended for his removal. But, unfortunately, the then Government rejected the request of this Chief Election Commissioner. This is the democracy which they adopted. Sir, now, our Government has brought a three-member Committee - apart from the Prime Minister, the LoP and the Union Minister are there in it. So, before these so-called Members of the Opposition Parties opposing this Bill, they should not only introspect, they should also know what measures have they taken during the framing of the constitutional norms of separation of powers, what were the methodology, they have followed. More extensively, even in the quasi-judicial. ...(*Time-bell rings.*)...

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Your time to speak is over.

DR. K. LAXMAN: Constitutional bodies like CAG, UPSC, NCSC, NCBC, NCST, and so on, they never bothered. And in practice, it was the Government alone; they have decided that way. Sir, finally, by supporting this Bill, I would like to make some recommendations. The black money is playing a dominant role in the present day politics; you have been witnessing how hundreds of crores of rupees now are stashed. (*Time-bell rings.*) Sir, to eradicate black money from the politics, the Government is also...

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Now, Dr. Amee Yajnik. Thank you, Dr. K. Laxman.

DR. AMEE YAJNIK (Gujarat): Sir, I get up to speak on this very important Bill. But, having listened to all the speakers, especially the hon. Law Minister, I wish they had gone back to Constituent Assembly debates of June, 1949 and seen the extent of the debate that had taken place on this particular issue of Election Commission. And, the only statement that came out of the whole debate was election politics, election machinery and how election should be completely out of the hands of the Executive. There should be no Executive interference and this should be an independent autonomous body.

Having said that, I come back to the Law Commission Report of 2015, where exactly two lines were said by the Law Commission in the Report. It said that there should not be any breakdown of the rule of law. Now, the rule of law which is meant in the democratic setup today is that there should be strong institutions, a vibrant democracy and all institutions should be independently working for the people of this country post-Independence. Now, coming to the Supreme Court and the Apex Court's judgment in the matter of 2015 has been raked up by many. I have also heard some of them saying that there had been selective liking to the hon. apex court judgments and selective non-liking of the hon. apex court's judgments. Sir, the hon. apex court in the matter of 2015 said that there was a constitutional vacuum because there was no procedure which was shown in a particular Bill by Parliament or that there was no law. So, that vacuum should be filled and, hence, this Bill has come today in 2023, the Chief Election Commissioner and other Election Commissioners Bill, 2023. Sir, why is there the necessity for this Bill? I would like to make some observations which I have seen in the public domain. There have been instances where enlightened citizens have written to the hon. President of our country pointing out that there seems to be a crisis of credibility with this particular institution.

We have seen that there have been instances where intelligent people, intellectuals and academicians have written very strongly that this institution needs a robust mechanism of transparency. A mechanism that is responsible to the people of the country. Hence, you again come to a question what does the Election Commission of this country do? Sir, you can start from electoral bonds, you can start from electoral voter-ids, electoral rolls and you can talk about all the dates and the schedules which are set by the Election Commission for every election; Lok Sabha, Rajya Sabha, President, Vice President or State Legislative Assembly elections. But, the most important part is the silent period of the election where the Election Commission plays kind of a supervisory role where the code of conduct comes into picture. It is where the transparent working of the Election Commission becomes completely open to the people of this country. Sir, the elections are meant for the people of this country, and this voting system is meant for the people of this country.

So, when we are talking about setting up of Election Commission of India under this particular Bill, the moot question comes that there is not a set of laws whereby the Election Commission functions. There are certain kind of procedures. It is said that they are replacing the wordings of the strict laws. These procedures need to be transparent. These procedures if they are done transparently, then the accountability can be seen, it will be very visible. For this, the thrust of the Bill should be that the composition of the Election Commission should be such that whatever I have said should be seen to be implemented. Hence, when we come to the composition, we come to the part where the hon. Apex court had put the word 'Chief Justice of India' where the Committee should be of the hon. Prime Minister, the Leader of the Opposition and the Chief Justice of India. In this Bill, you will find that the composition is, the hon. Prime Minister, a Cabinet Minister and the Leader of the Opposition. Sometimes, we start wondering as to why there is a question, an iota of doubt because if the Cabinet Minister is from the Ruling Party, where would the transparency or the accountability go? Where this would be seen to have been exercised under this Bill? Why is there not an independent, an accountable component in this kind of composition? Sir, when you talk about the Election Commission of India, the people of this country and also the world, they are watching that it is a vibrant democracy. When I was going through the Constituent Assembly debates of 1949, it was just a country that had just become Independent after a long rule of subjugation and at that time, the framers of the Constitution wanted a very, very robust, independent and accountable Election Commission which would decide the fate of the voters, the liking of the voters, the intent of the voters to bring in a democracy, bring in some kind of a ruling dispensation that would only cater to the democracy of this country and build democratic institutions and see that this democracy becomes a vibrant democracy. Sir, the institutions are meant to be for the people of the country and not for the Ruling Parties. The institutions are meant to deliver fairness and if an Election Commission will not be able to see that the elections are conducted in a free and fair manner in a transparent manner, then, where is the component of democracy and where is the way in which the governance model is being shown or projected to the world? And that brings us to the moot question, if this Bill needs some rectification; if the Bill needs to be looked into on several other aspects. It has been functioning for a long while, but, as I have said, that there have been instances. I do not want to pin-point instances because suddenly a huge group of people will get up and start shouting but will not understand as to what is the backbone of bringing an Election Commission of India in a way where it caters to the need of the people of this country and that is the transparent mechanism, the rule of

law. Sir, books and books have been written on the rule of law of this country. They are dependent on the independent institutions.

If a Bill weakens the institutions, we have weak institutions in place where anything can be distorted, then the functioning of the democracy cannot be said to be a vibrant functioning. That is why when the Election Commission of India, which is the highest body and the Chief Election Commissioner.. ..(*Interruptions*).. I am not going into the tenure and salary and the period of the tenure. That happens in every other institution. But the composition makes the difference because that composition will decide about the accountability and transparency factor and the performance factor which will tell on these elections. Sir, when I talked about the silent period, nobody has touched upon that. But when there is a silent period, that is the time where the Election Commission has to function very strictly and has to be very vigilant because if that Code of Conduct is breached and when the voters are given the silent period to make up their mind where they want to vote and at that particular time, when a particular ruling dispensation comes up with some kinds of statements that 'we would be doing this, we would be doing that, we have done that' and tries to influence the voters, this falls in the arena of the Election Commission. As there is not a stringent procedure or rule or law, it is governed by its actions and these actions are dependent on who is sitting in that particular Election Commission body. Hence, Sir, coming back to the Election Commission's regulations, procedures and how this Model Code of Conduct and party is being governed, I think, that is the main crux of the whole matter. So, the hon. apex court saw that there is a Constitutional vacuum and this has to go in the arena of the Parliament and the Parliament can only make a Bill or pass a Bill and make a law, hence, that express order was that this should be the composition. But, when the framers, I mean, the Parliamentarians sitting here and bringing a Bill, think that this can be changed, it can be brought in a way where it is not seen as independent composition, where it raises some kinds of doubt and hence this debate and everyone comes out with some point or the other, I think, it is time that the hon. Law Minister looks at this particular point of the composition aspect because anyway the duty is going to be performed. You are in public eye and I don't want to show what has happened in the past. I just mentioned a couple of these issues. Some of them are already pending before the hon. apex court where the Election Commission has been asked a question and that pertains to several factors - party's money, party's intentions, the way the party collects all the money, and how it is not transparent. All these are issues with the Election Commission. It is an administrative function, but yet these matters have gone to the hon. apex court. We should not forget that. Of course, the functions of the Legislature, Executive and Judiciary are all different and the judiciary only interprets what is made by the

Parliament and it is implemented by the Executive. But here we have a body which also functions in a way where it interprets and executes both. So, we have to understand that it is a unique body and how this unique body has to be answerable to the people in order to see that we become a robust democracy. We need to set an example. (*Time-bell rings.*) By shouting, by making sermons, by talking about that we are becoming the world leader that is not going to matter. What you are doing on the ground is the matter before the people of this country. Thank you.

SHRI R. GIRIRAJAN (Tamil Nadu): Mr. Vice-Chairman, Sir, I thank you very much for giving me time to speak. I also thank our party's Floor Leader, Shri Tiruchi Siva. Whenever the hon. Supreme Court intervenes to save the democracy, this Union Government shows its strength through this House and destroys the wishes and views of the Supreme Court. Sir, earlier the National Capital Territory Amendment Bill has been amended by this House. They have done it with a brute majority. Now the Union Government wants to make EC like a puppet. The Bill seeks to exclude the Chief Justice of India from panel to select the Chief Election Commissioner and the Election Commission is deeply flawed. Sir, this Bill undermines the very democratic foundation of picking up very important executives to oversee the election process in an autonomous and neutral roles.

5.00 P.M.

This will provide the worst possible optics to the appointment of election officials from among a set of chosen bureaucrats or others by a panel of Government officials.

Sir, Soviet Premier Joseph Stalin once said, 'It is not the people who vote, it is the people who count the votes.' I think, the present Bill reflects the mindset of the ruling dispensation in execution of the ideas of Joseph Stalin.

In eroding the process of holding elections and counting votes that has been largely done in a fair way to satisfy a large working electoral democracy like India, the present rulers are opening a Pandora's Box may lose forces that may come back to bite.

Sir, this Bill, rather than strengthening the democratic fabric of our nation, poses a risk to the independence and authority of the Election Commission. The proposed legislation undermines a crucial role of the Election Commission which it plays in upholding the democratic principles of our country. I strongly urge every Member of this House to vote against this Bill and, instead, support a fully functioning democracy that India represents.

Sir, now, you are in Treasury Benches. Before 1990, you had only a few Members in this Parliament. Now, you have a brute strength. It will not continue tomorrow. A day will come when your Acts will be amended. Mind it my friends. Thank you.

SHRI KANAKAMEDALA RAVINDRA KUMAR (Andhra Pradesh): Mr. Vice-Chairman, Sir, I am very thankful to you for giving me this opportunity to participate in the discussion. The Bill pertains to appointment, service conditions and term of the Chief Election Commissioner of India and the other Election Commissioners.

Sir, this Bill has been brought before this House to replace the existing Act which lacks certain aspects pertaining to the office of the Chief Election Commissioner and the Election Commissioners. The lacuna has been pointed out by the Supreme Court and it observed that until proper legislative mechanism is put in place the order will prevail in the appointment, service conditions and tenure of the Chief Election Commissioner and the Election Commissioners. This Bill provides Search Committee and a Selection Committee. The function of the Search Committee is to form a panel of eligible candidates to the post of the Chief Election Commissioner and other Election Commissioners. After forming the panel, it will forward the list of persons to the Selection Committee. The Search Committee will be headed by the Cabinet Secretary and two officers not below the rank of Secretary to the Government of India will be its Members. The Selection Committee will recommend to the President the name of the person to be appointed as the Chief Election Commissioner. Accordingly, they will be appointed by the Government. The provisions, at a glance, seem to be fine. But, if one goes into the provisions contained under Clause 8(2) of the Bill which says that 'the Selection Committee may also consider any other person than those included in the panel of Search Committee.' Therefore, provisions relating to appointment of Search Committee becomes infructuous. The other aspect is about powers. The powers are already conferred under Article 324 to the Constitution.

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Kindly conclude. You have been given two minutes.

SHRI KANAKAMEDALA RAVINDRA KUMAR: Sir, I have six minutes time.

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): No. You have two minutes.

SHRI KANAKAMEDALA RAVINDRA KUMAR: I am sure, Sir, I have six minutes.

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): No.

SHRI KANAKAMEDALA RAVINDRA KUMAR: Sir, I thought I would get six minutes and prepared myself accordingly. I may be permitted.

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): No.

SHRI KANAKAMEDALA RAVINDRA KUMAR: Sir, Clause 8 has to be amended. Secondly, there is no mention with regard to appointing authority of the Search Committee members. ...*(Time bell rings.)*...

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Please conclude.

SHRI KANAKAMEDALA RAVINDRA KUMAR: Conducting of elections in a free and fair manner is most important. Representation of Peoples Act is another important thing. These two have to be looked into in connection with the Andhra Pradesh. ...*(Time-Bell rings.)*... Just one more minute, Sir. ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Please conclude. ...*(Interruptions)*... Please conclude. ...*(Interruptions)*...

SHRI KANAKAMEDALA RAVINDRA KUMAR: The voters were deleted at the behest of the State Government. ...*(Interruptions)*... That has to be condemned. ...*(Interruptions)*... The recent reforms have to be looked into; Representation of Peoples Act, changing the voters' list, interference of the State Government, and also disposing of criminal cases against the people's representatives, including the Chief Minister of Andhra Pradesh. Thank you, Sir.

MESSAGES FROM LOK SABHA

- (i) **The Appropriation (No.3) Bill, 2023**
- (ii) **The Appropriation (No.4) Bill, 2023**

THE VICE-CHAIRMAN (SHRI SUSHIL KUMAR GUPTA): Message from Lok Sabha. Secretary-General.