

Madam, through you, I request this august House to join me in congratulating ISRO and other participants associated with the successful launch of GSLV-D2.

Madam, since then, some further developments have taken place. I will just take one minute. Multiple orbit raising operations are planned for GSAT-2 satellite to raise its current geo-synchronous transfer orbit. The first of these orbit raising operations was successfully carried out at 8.45 this morning by firing 440 Newton Liquid Apogee Motor on board the satellite for a duration of 47 minutes and 30 seconds. The health of the satellite is normal. Thank you.

THE DEPUTY CHAIRMAN: We congratulate all our scientists working for ISRO and associated with this launch. Today, we feel very proud that our scientists have done us really proud by taking India into the international standards of satellite technology.

SHRI PRITHVIRAJ CHAVAN (Maharashtra) : Madam, I just want to know from the hon. Minister, what is the status of indigenously-developed cryogenic engine?

SHRI SATYABRATA MOOKHERJEE: In fact, this particular cryogenic engine was manufactured by the Russian Federation and we have five others which have also been manufactured by the Russian Federation. But, we have progressed in the field and we are also manufacturing.

THE DEPUTY CHAIRMAN: Now, Mr. Bagrodia said that it is time for Private Members' Business. But, still, we will encroach on five extra minutes of Private Members' Business, which we will be made up later on. There is also a Government Resolution with Shri I.D. Swami, who is waiting here. If the House so agrees, it is to be passed.

GOVERNMENT RESOLUTION

Approving the Proposal of the Government to Reject the Award Given in CA Reference No: 1/1998

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI I.D. SWAMI): Madam, I, on behalf of my senior colleague, hon. Deputy Prime Minister, move the following resolution:

"That this House approves the proposal of the Government to reject the Award given on 18th October, 1999 by the Board of Arbitration in CA Reference No. 1/1998 in respect of the pay scales for the post of Computer in the Office of Registrar General, India in terms of para 21 of the Scheme for Joint Consultative Machinery and Compulsory Arbitration, as the implementation of the Award, which involves an expenditure of Rs. 17.58 crores approximately in payment of arrears upto 31.12.2002 and recurring expenditure of Rs.2.16 crores approximately per annum, will adversely affect the national economy and social justice."

SHRI JIBON ROY (West Bengal) : Madam, before the Resolution is passed, I have something to say.

THE DEPUTY CHAIRMAN: Let me first say, "Resolution moved". Now, as I have said "Resolution Moved", you can say what you want to say.

SHRI JIBON ROY : Madam, this Resolution cannot be passed on two counts. First thing is that it is not in proper form. If it is agreed, I will explain and then I will make the next point. If you see the fourth line of the Resolution, it is written as "for the post of 'Computer' in the..." कंप्यूटर का क्या पे-स्केल हो सकता है? It must be computer assistant, computer engineer or some technician.

SHRI I.D. SWAMI: Madam, the designation of the office of the person who holds this post is 'Computer'. It is not the computer, hard or soft. It is not the machine. It is the name of the post just like "clerk" or "assistant". It is the designation of a person who holds this particular office.

SHRI JIBON ROY: The second point is that arbitration is a part of the grievance redressal process in the system. Now, this grievance redressal machinery and arbitration is a compulsory arbitration and according to the system, arbitrator is given some job. He made the recommendation that such and such will be the recommendation, whatever the money involved. Now, it cannot happen all the time that the Government comes forward with a Resolution -- in the last Session itself, we had four such Resolutions -- saying that the Award of the arbitrator cannot be accepted. And, we use Parliament to veto it. It is a bad

practice, and if we are meant to use our powers against them, in that case, it is better that you withdraw the very basis of the redressal machinery. You withdraw the redressal system. All the time you are coming here and using this forum, this august body, to cancel the recommendations of the arbitrators. It is a bad thing, and it will cast an aspersion against us. And, Madam, they do not explain anything as to what the recommendation was, what the position of the Union was and what the situation is of the Grievance Redressal Machinery. They do not explain anything to us; they simply use this forum for their sweet will. I oppose this system itself, the very procedure itself.

SHRI FALI S. NARIMAN (Nominated): Madam, I am glad that my hon. colleague here has raised this point because ever since I came to this House, I have always wondered, and I have asked many senior colleagues here, as to why these things are moved in this summary fashion, as a resolve to reject some Award. Surely, an Award is meant to be binding in the first place. It can, certainly, be rejected if the ways known to law are followed. I have never been able to follow how the House is concerned with rejecting an Award passed under an arbitratory machinery that has been set up. And, if it has to be done, then, surely, there must be some procedure whereby some Committee of this House is appointed to suggest the why and wherefore of a particular thing. Mere financial constraints do not impel rejection of an award. Therefore, I would request the Minister to kindly explain this procedure because I have never been able to follow it. And, I support what my hon. friend has said.

SHRI SHANKAR ROY CHOWDHURY (West Bengal): Madam, I support what Mr. Nariman has said. This is a very cynical misuse of legislative powers because there is the Consultative Machinery that has given certain Award, and then, as hon. Nariman has said, you come to us, to the Legislative Body, to bypass what the Consultative Machinery has said. There must be some other way out, and we object to this cynical misuse of legislative powers. It is a denial of natural justice. It is not correct.

THE DEPUTY CHAIRMAN: Mantriji, do you have any explanation?

SHRI I.D. SWAMI: Madam, in fact, this is the total procedure. Of course, the suggestion made by the hon. Members is well taken, and we can consider it. As far as the procedure is concerned and as far as the reasons are concerned, the statement giving the reasons and rationale for

rejection was laid on the Table of the House on 12th March, 2003. So, the reasons and arguments have already been placed before this House, considering the various implications including the anomaly within the cadre and the additional financial burden. Now, not only there is the financial burden but the hierarchy in different cadres also get disturbed. And, it was the Fifth Pay Commission which has made certain recommendations, and the Award has, unfortunately, gone against them. That is why we are taking this august House into confidence for this purpose. But, in the meantime, the employees concerned have gone to the CAT and have obtained a verdict, against which the Government has already approached the High Court. The High Court is seized of the matter. But the High Court has given a direction that within three months, we must finalise so far as the proceedings of the Award is concerned. For the rejection of the Award, we have to come to this House as per the existing procedure.

SHRI JIBON ROY: Madam, there is the trade union; there is the Court; there is the arbitrator; against whom they have gone to the High Court. And, to get something from the High Court, they are making use of us.

SHRI I.D. SWAMI: Madam, what I want to say is that after all, when the direction of the High Court is there...*(Interruptions)*...

SHRI JIBON ROY: What is the position of the Central Trade Unions? The labour must have been represented by some union. Is there any understanding between the Trade Union and the Government?

SHRI I.D. SWAMI: When the matter is *sub judice*...*(Interruptions)*...

SHRI JIBON ROY: Then, you are making use of us against the Trade Unions, against the Court...

SHRI I.D. SWAMI: Madam, so far as the reasons are concerned, we have already placed before the House...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Let me understand first..*(Interruptions)*... Let him *explain*...*(Interruptions)*...

SHRI I.D. SWAMI: Madam, so far as the reason or logic is concerned, that we have already placed on the Table of the House, on the

12 of March. And, since it was the direction from the Delhi High Court that the matter must be finalised one way or the other, we are seeking the permission of this august House according to the existing procedure. ...*(Interruptions)*...

SHRI JIBON ROY: Why is it supposed to go in favour of the union? We are being used in the High Court.

SHRI S.S. AHLUWALIA (Jharkhand) : Madam, we have only one problem that every day, there are so many papers laid before this House. The reasons, causes or whatever required for this motion, everything was laid on the 12th of March. We could have gone through it. ...*(Interruptions)*... It is every day that we lay down papers, and one can collect it from the Publication Department or one can see them in library. That is the reason, Madam, we wanted to discuss the Fiscal Responsibility and Budget Management Bill. And, the day, we will discuss all these matters, we will understand, what are the constraints. ...*(Interruptions)*...

SHRI JIBON ROY: Will the Minister explain, what is the position of the Union?

THE DEPUTY CHAIRMAN: Mr. Ahluwalia is saying something. Listen to him and then you can make appropriate remarks.

SHRI S.S. AHLUWALIA: That is the problem. We could have discussed that Bill, then we could have understood the constraints of the Government; why we are rejecting it, why we are accepting it and why we are not accepting it. That is the reason. And this motion is before the House, Madam, let the House decide on this. ...*(Interruptions)*...

SHRI PRITHVIRAJ CHAVAN (Maharashtra) : Madam, this is entirely a new angle now. What has the Fiscal Responsibility Bill got to do with this Resolution, which deals with...*(Interruptions)*...

SHRI I.D. SWAMI : According to the present laid down procedure, we have to come to this august House to get its permission to get it rejected. That is the only existing procedure. Whatever feelings of the hon. Members are, whatever their suggestions are, well, the Government can always consider them. ... *(Interruptions)*... That is the existing procedure there.

SHRI FALI S. NARIMAN: Madam, there is a problem. It sets a very odd precedent, because suppose the High Court says, 'No, this is wrong' then, it steps into our sovereignty, and then, we get into a subordinate position. Kindly, investigate into it. And, please, let us know what the position is.

SHRI I.D. SWAM I: I have no quarrel with the suggestions and with the sentiments of the House..*(Interruptions)*...

THE DEPUTY CHAIRMAN: Let Kim complete his sentence.

SHRI I.D. SWAM I: Madam, so far as their suggestions are concerned, I have already said that the Government can always consider, if there is any other procedure that can be adopted. But as per the laid down procedure for the present, in such an award, this is the only way. The direction of the High Court is there that we must finalise it, one way or the other, and we have come before this forum, which has the exclusive jurisdiction for the present.

SHRI JIBON ROY: The case as it stands now is that some recommendations from the arbitration came in on something. The Government wanted to get them quashed. Against that, the union went to the CAT. And against that order of the CAT, the Government went to the High Court. The High Court says, "Everything is all right. You have to implement it. If you want to get it disqualified, then get the sanction of the Parliament". And our House is being used against the union, against the CAT in the High Court. It is unfair. Keep it in abeyance, and we will discuss it in the Monsoon Session.

स्वास्थ्य और परिवार कल्याण मंत्री तथा संसदीय कार्य मंत्री (श्रीमती सुषमा स्वराज) :
उपसभापति माहेदया, यह सीधे-सीधे नियमों का प्रश्न है। अभी जैसा कि श्री जीवन राय जी कह रहे हैं कि उनको यह लगता है कि हम इस सदन का इस्तेमाल कर रहे हैं, मैं उन्हें बताना चाहती हूँ कि हम इस सदन का बेजा इस्तेमाल नहीं कर रहे, हम सदन का इस्तेमाल नियमों के तहत कर रहे हैं। यह नियम कहता है कि जब कोई अवार्ड दे दिया जाए तो दो ऑप्शंस सरकार के पास हैं तो उसे एक्सेप्ट कर ले, अगर उसे रिजेक्ट करना है तो हाऊस के पास जाओ और अगर सदन इजाजत दे तो उसको रिजेक्ट करवा दो। जो अवार्ड सरकार एक्सेप्ट करती हैं, उसके लिए सदन के सामने नहीं आती। सरकार को पूरा अख्तियार नहीं दे दिया है उसको रिजेक्ट करने का। सदन के सामने आई हैं। तो हम सदन का बेजा इस्तेमाल नहीं कर रहे हैं। हम यूसर्प नहीं कर रहे पावर्स का, न कोई मिसयूज कर रहे हैं। नियमों ने हमें ताकत दी है

[9 May, 2003]

RAJYA SABHA

कि हम सदन के सामने आए। हम सदन के सामने आए हैं, सदन रिजेक्ट कर सकता है, सदन ऐक्ससेप्ट कर सकता है। सदन हमें कह सकता है कि हम आपका मोशन मंजूर नहीं करते, वह अधिकार तो सदन के पास हैं, लेकिन नारीमन जी शायद किसी गलत जानकारी के आधार पर यह कह रहे हैं कि अगर हाई कोर्ट ने यह कर दिया तो। हाई कोर्ट के अवार्ड को, दिए हुए निर्णय को अमान्य करने के लिए एक अधिकार सदन को दिया है नियमों ने और अमान्य करने के लिए हम आए हैं। महोदया, मान्य करने का अधिकार हमें हैं, अमान्य करने का अधिकार सदन को है। इसलिए हम सदन के सामने आए हैं और यह पहली बार नहीं है। इस सदन ने बीसियों अवार्ड पहले भी अमान्य किए हैं और उसी श्रृंखला को आगे बढ़ाते हुए, जिस अवार्ड को सरकार मानना नहीं चाहती या न मानने के लिए मजबूर हैं, उसके लिए सदन से इजाजत मांग रही है। अब सदन इजाजत देगा या नहीं देगा लेकिन नारीमन जी का यह कहना कि कोई कोर्ट में चला जाएगा और हमारी Sovereignty खत्म होगी, नहीं ऐसी बात नहीं है। Sovereignty के लिए ही हम यहां आए हैं। उस Sovereignty के लिए हमें यह नियम दिया गया है, यह अधिकार दिया गया है कि हाइकोर्ट के किसी निर्णय को अगर सरकार मानना नहीं चाहती तो सदन के सामने ले आए और अगर सदन इजाजत दे देता है तो अमान्य कर दे। केवल नियमों का इस्तेमाल करते हुए हम आए हैं... (व्यवधान) ...

THE DEPUTY CHAIRMAN: Now that we have encroached, quite a bit, upon the Private Members' time, I shall put the Resolution to vote. The question is...(Interruptions)...

SHRI JIBON ROY: Madam, it cannot be done since the matter is in the court. It has never happened that when an issue is referred to the court, the matter is allowed to be debated in the House to influence the proceedings of the court. Never has this House been used to influence the verdict of the court. Never. It is not allowed. ...(Interruptions)...

श्रीमती सुषमा स्वराज : उपसभापति महोदया, जब मैं कहती हूँ कि बहुत से अवार्ड यह सदन अमान्य कर चुका है तो वे ही अवार्ड हैं जहां सरकार हारी है और लोग जीते हैं। इम्प्लॉयीज जीते हैं, सरकार हारी है, ऐसा अवार्ड इम्प्लॉयीज के पक्ष में आया है, उसकी को अमान्य करने के लिए हम यहां आए हैं... (व्यवधान) ...

SHRI JIBON ROY: Let it be settled in the court. Why do you use this House? ...(Interruptions)...On a number of occasions, you have given the ruling that...(Interruptions)...

श्रीमती सुषमा स्वराज : रूल्स सरकार नहीं बनाती, नियम सरकार नहीं बनाती, नियम सदन बनाता है।

THE DEPUTY CHAIRMAN: All right...(Interruptions)...Just one second. There is a simple alternative. I have this paper. You have the authority to reject it. You reject it. ...(Interruptions)...

SHRI JIBON ROY: Madam, the Chairman has given a rule on a number of occasions...(Interruptions)... When the court is involved, we cannot discuss anything. The Chair has given this ruling a number of times. ...(Interruptions)...

THE DEPUTY CHAIRMAN: One minute...(Interruptions)...Just one second. I am going to put the question. You have the right to reject it. So, you reject it. ...(Interruptions)...

SHRI JIBON ROY: No, no. You should not allow it. The Chair has never allowed a subject to be discussed when it is being dealt in the court. It is under the umbrella of the court. The House has never been allowed to discuss it.

THE DEPUTY CHAIRMAN: Mr. Jibon Roy, I have a problem, , because once a motion is moved in the House, either it has to be carried through, or, it has to be rejected. I can't leave it halfway. ...(Interruptions)...

SHRI JIBON ROY: You postpone it, Madam. We cannot discuss it. ...(Interruptions)...

SHRI RAJU PARMAR (Gujarat) : Why are you bringing it at the last moment, on the last day of the session? ...(Interruptions आपको इतनी जरूरत थी तो पहले ले आते ... (व्यवधान) ...

SHRI I. D. SWAMI: Madam, we can come back again to this august House. We can get it postponed and come back to this august House again with more force.

श्रीमती सुषमा स्वराज : ठीक है, विद्वद्गं करवा दीजिए, कोई दिक्कत नहीं, दोबारा लेकर आ जाएंगे।

THE DEPUTY CHAIRMAN: Okay. Still, I will have to take the permission of the House for the Minister to withdraw it. If the House gives the permission to withdraw it, it is fine.

SHRI I. D. SWAMI: Madam, I beg, to move for leave to withdraw the following Resolution :-

"That this House approves the proposal of the Government to reject the Award given on 18th October, 1999 by the Board of Arbitration in,CA Reference No. 1/1998 in respect of the pay scales for the post of Computer in the Office of Registrar General, India in terms of para 21 of the Scheme for Joint Consultative Machinery and Compulsory Arbitration, as the implementation of the Award, which involves an expenditure of Rs. 17.58 crores approximately in payment of arrears up to 31.12.2002 and recurring expenditure of Rs.2.16 crores approximately per annum, will adversely affect the national economy and social justice."

The Resolution was, by leave, withdrawn.

THE DEPUTY CHAIRMAN: So, it is withdrawn. We will now come to the Private Members Legislative Business, Bills for introduction. Dr. Dasari Narayana Rao - absent. Shri N.K. Premachandran -absent. Shri P. Prabhakar Reddy - absent.

PRIVATE MEMBERS' BILLS

The Control of Population Bill, 2003

SHRI KARNENDU BHATTACHARJEE (Assam): Madam, I move for leave to introduce a Bill to provide for population control and for matters connected therewith.

The question was put and the motion was adopted.

SHRI KARNENDU BHATTACHARJEE: Madam, I introduce the Bill.

The Constitution (Amendment) Bill, 2003 (Substitution of New Article for Article 120)

SHRI KARNENDU BHATTACHARJEE (Assam): Madam, I move for leave to introduce a Bill further to amend the Constitution of India.

The question was put and the motion was adopted.