

Review Committee on POTA

***386. PROF. ALKA BALRAM KSHATRIYA:†**
SHRIMATI SHABANA AZMI:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether in view of the criticism made by various political parties, Government have decided to review POTA provisions;

(b) if so, whether any panel has been set up to study the provisions of POTA;

(c) if so, the suggestions made by the Review Committee; and

(d) by when legislation for amending the provisions of POTA are likely to be considered ?

THE DEPUTY PRIME MINISTER, INCHARGE OF THE MINISTRY OF HOME AFFAIRS AND MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI L. K. ADVANI): (a) to (d) The Central Government has constituted a review Committee under Section 60 of the Prevention of Terrorism Act, 2002 to take a comprehensive view of the use of the said Act in various States and accordingly, give its findings and suggestions for removing shortcomings, if any, in the implementation of the said Act and to suggest measures to ensure that the provisions of the Act are invoked for combating terrorism only. This Review Committee has been notified in the Gazette of India Extraordinary, on 4.4.2003.

प्रो. अलका क्षत्रिय : सभापति महोदय, मैं आपके माध्यम से मंत्री जी से कहना चाहती हूँ कि मैंने जो प्रश्न पूछा है, उस प्रश्न का उन्होंने जो जवाब दिया है, उससे मैं संतुष्ट नहीं हूँ। हमने देखा है कि पूरे देश के अंदर कई राज्यों में पोटा का दुरुपयोग हुआ है और इसका राजकीय दुरुपयोग हुआ है। उन्होंने राजकीय में लोगों के अगेंस्ट ही पोटा का दुरुपयोग किया है। उसके संबंध में जो समिति बनाने की सरकार ने बात की है, वह समिति किस बात पर विचार करने के लिए बनाई है? एक तरफ तो आप कहते हैं कि सरकार ने लॉ के अंदर ऐसा कुछ प्रोविजन किया है और दूसरी तरफ आप समिति बनाने की बात कहते हैं। तो क्या इसका मतलब यह है कि सरकार खुद मानती है कि पोटा का दुरुपयोग हुआ है?

† The question was actually asked on the floor of the House by Prof. Alka Balram Kshatriya.

श्री लाल कृष्ण आडवाणी : इस सदन में जब सरकार ने घोषणा की थी तभी इस बात का नोटिस लिया था कि आरोप लगे हैं कि इसका दुरुपयोग हुआ है। इसलिए सरकार ने जो नोटिफिकेशन ईश्यू किया है, उसमें भी यह इनकॉरपोरेट किया—जहां प्रीएम्बल में हमने कहा है कि whereas it has been alleged from time to time in certain quarters that the provisions of POTA are being applied in cases where they should not be invoked, thus giving rise to apprehensions regarding the said Act being misused. तो फॉर्मली हमने इनकॉरपोरेट करके इस रिव्यू कमेटी को कहा है कि आप कॉम्प्रिहेंसिवली इन सारे केसेज को, अगर आपके पास कोई शिकायत आती है या सुओ मोटो में आप उस पर ध्यान दे सकते हैं और फिर एडवाइस करें कि क्या होना चाहिए।

प्रो. अलका क्षत्रिय : जो केस हुए, वे गलत केस हुए हैं। वे गलत केस कब तक सुलझाए जा सकेंगे, समिति अपनी रिपोर्ट कब तक देगी और उसके ऊपर एक्शन कब तक लिया जाएगा?

श्री लाल कृष्ण आडवाणी : यह रिव्यू कमेटी ही एडवाइस करेगी और जो भी एडवाइस इससे मिलेगी, उसके अनुसार केन्द्रीय सरकार काम करेगी।

प्रो. अलका क्षत्रिय : लेकिन रिव्यू कमेटी कब तक एडवाइस करेगी?

श्री लाल कृष्ण आडवाणी : वह बन गई है। (Interruptions)

SHRIMATI SHABANA AZMI : Sir, through you, I wish to ask the hon. Minister to inform us what are the terms of reference of the review panel, the timeframe fixed for giving findings and suggestions to check the misuse of POTA. How many cases have been referred to the review panel by the Central Government and how many cases has the review panel taken up on its own? I would also like to ask the Minister whether it is true that all the accused in the Godhra carnage have been booked under POTA, but not one single person accused for the bloodbath that followed in Gujarat has been charged under POTA, reflecting a clear communal bias. Have any of these cases been referred by the Government to the Central Review Committee?

SHRI L.K. ADVANI : Sir, so far as the terms of referece of the Review Committee are concerned, I may read it out from the Notification itself. "The terms of reference of the Review Committee shall be as under :

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RAJYA SABHA

The Review Committee shall take a comprehensive view of the use of the said Act in various States and shall be empowered to entertain complaints or grievances with regard to enforcement of the said Act and accordingly give its findings and suggestions for removing the shortcomings, if any, in the implementation of the said Act.

The Review Committee shall suggest measures to ensure that the provisions of the said Act are invoked for combating terrorism only."

So, these are the terms of reference of the Review Committee. So far as the references made to the Committee are concerned, the Central Government has made no reference with respect to any case. The Committee has been empowered to take cognisance of various cases in which abuse has been alleged anywhere on its own or on a formal complaint being made to it.

SHRIMATI SHABANA AZMI: Sir, in terms of the timeframe then what is going to happen to the cases which are, at the moment, registered under POTA? If there is a Review Committee that is looking at them, then is any directive being given from the Central Government to say that those should rest at the moment and no action should be taken?

SHRI L.K. ADVANI : I am sure the hon. Member is aware that ordinarily even under the provisions of the IPC or other Acts, there are cases of abuse. In those cases, the Central Government does not come into the picture, so far as the State Government is concerned. In this case, because of the very extraordinary nature of POTA and the fact that in POTA itself a provision was there empowering the Government to set up a Review Committee, we took cognisance of the allegations of abuse that were being made in respect of several matters and set up the Review Committee. Now, it would be for the Review Committee to pursue the matter and it would be for the Government of India, and I am sure even the State Governments would go by whatever advice this Review Committee gives.

SHRI KAPIL SIBAL : Thank you, Mr. Chairman. I would ask of the hon. Minister in the context of the reply given wherein you have said that his Committee will suggest measures to ensure that the provisions of the Act are invoked for combating terrorism only. Would the Minister

tell us whether there is an implied admission in this statement that in fact POTA has been used for purposes which are 'not to combat terrorism only'?

Will the Minister please tell us whether there are cases in which people have been detained under POTA without any reference to terrorism?

SHRI L.K. ADVANI : In this House itself, as well as in the other House, allegations have been made. (*Interruptions*)

SHRI KAPIL SIBAL : Is it correct that the Central Government believes that all people arrested under POTA were genuinely arrested or there are some exceptions?

SHRI L.K. ADVANI : I have said very clearly, even when the Parliament passed that enactment, the conception was that it would be used not as a substitute for ordinary law but would be used only in cases of terrorism, which has again been emphasised while framing.....(*Interruptions*)

SHRI KAPIL SIBAL : In the view of the Central Government, are there any instances where people have been arrested without reference to terrorism? The Ministers of the Central Government have made public statements...(*Interruptions*) Are you aware that some people have been arrested unjustly under this POTA? Is that correct or not? Please tell us.

SHRI L.K. ADVANI : I am sure, Mr. Chairman, Sir, the hon. Member, who is an eminent lawyer would not expect me to usurp the authority of the Review Committee. I have taken cognisance. (*Interruptions*) It is for the Review Committee to decide. (*Interruptions*)

SHRI KAPIL SIBAL : Is arrest of a particular person under POTA justified? (*Interruptions*)

SHRI S. VIDUTHALAI VIRUMBI : Sir, there is difference between TADA and POTA Review Committee. (*Interruptions*)

MR. CHAIRMAN : Nothing will go on record. Now, Shri Abu Azmi. (*Interruptions*) आप बैठ जाइए। इनको जवाब देने दीजिए। (*Interruptions*) पहले आप बैठिए, मैंने आपको एलौऊ नहीं किया है। Speaking without permission is not a

good practice. I will not allow without permission. Nothing else will go on record. बोलिए, Abu Azmiji. (*Interruptions*)

श्री अबू आसिम आजमी : सभापति महोदय, मैं आपके माध्यम से ऑनरेबल मिनिस्टर से यह जानना चाहता हूँ कि क्या सरकार की कोई ऐसी नीति है या सरकार कोई ऐसा विचार कर रही है कि जिन लोगों को फर्जी मामले बनाकर पोटा में गिरफ्तार किया जा रहा है और बाद में वे कोर्ट से छूट जाते हैं, जिन्होंने इनको गिरफ्तार किया है उन पर कोई अंकुश लगाया जाएगा या दंडित किया जाएगा?

श्री लाल कृष्ण आडवाणी : सभापति जी, पोटा को एक तरफ छोड़ दीजिए। लॉ एंड आर्डर के मामले में अगर किसी स्टेट गवर्नमेंट में किसी प्रोविजन का दुरुपयोग होता है तो सैन्ट्रल गवर्नमेंट उस पर इन्टरवीन नहीं करती है। इस मामले में हमने एक स्पेशल रिव्यू कमेटी बनाई है क्योंकि जो पोटा पार्लियामेंट में पास किया है, उसमें हमको अधिकार दिया गया है।.... (व्यवधान)...

श्री अबू आसिम आजमी : मुम्बई में अफरोज नाम के एक लड़के को गलत तरीके से पकड़ा गया है।.... (व्यवधान)...

SHRI S. VIDUTHALAI VIRUMBI :*

MR. CHAIRMAN : Please take your seat.

श्री अबू आसिम आजमी : सभापति जी, मुम्बई में.....

श्री सभापति : अब हो गया, Please don't disturb. Now, डा. मनमोहन सिंह। (*Interruptions*) डा. मनमोहन सिंह जी आप बोलिए।

DR. MANMOHAN SINGH : Mr. Chairman, Sir, through you, I would respectfully submit to the hon. Deputy Prime Minister that he should not take lightly the responsibility of the Central Government in ensuring that there is no misuse of the provisions of the POTA particularly because he had himself when piloting the Bill given solemn assurances to this House. Now one hon. Member has referred to the gross communal bias in picking people up under the POTA. This is something for which the Central Government cannot evade its responsibility. If these things are happening, I think, the Central Government has a responsibility. The second case is the fickle mindedness of the Central Government. In one particular case an affidavit is filed in the Supreme Court taking one view whether a particular person is rightly or wrongly arrested. A few days later that affidavit is changed. Is that the Government at

*Not recorded.

work? What is happening in the administration of the POTA is a matter of serious concern to all of us.

SHRI L.K. ADVANI : Sir, so far as use of POTA by the State Governments is concerned, it is because of misgivings and allegations that were voiced that this Review Committee has been constituted. I am sure that this Review Committee would take a comprehensive view of the entire situation and even make recommendations if it feels. After all, in the law itself safeguards were provided that no court can take cognizance of any offence under the said Act without the previous sanction of the Central Government or the State Government, as the case may be. Had it been the Central Government, then I would have been responsible. But if there is a case under POTA which has been invoked by any State Government, and the case which is not a case of terrorism, I am sure that this Committee will see that the correctives are applied.

**387. [The questioner (Shri Isam Singh) was absent. For answer vide page 32-33 infra.]*

Power scenario in Delhi

*388. SHRI P. PRABHAKAR REDDY : Will the Minister of POWER be pleased to state what are the steps Government have taken to ensure adequate power supply in Delhi and to narrow the gap between the demand and the supply of power in the coming months in the Capital?

THE MINISTER OF POWER (SHRI ANANT GANGARAM GEETE): A Statement is laid on the Table of the House.

Statement

Supply and distribution of power in Delhi is in the purview of Government of NCT of Delhi. However, electricity being a concurrent subject, Ministry of Power, Government of India reviews power supply position in the National Capital, Delhi from time to time and provides assistance, whenever required, to augment availability of power. It has been ascertained that as against the anticipated peak demand of 3200 MW in April, 2003 and 3700 MW in July/August, 2003, the supply of