

DELHI LEGISLATIVE ASSEMBLY
Bulletin Part-I
(Brief summary of proceedings)
Tuesday, 26th May, 2015/ 06 Jeyshta, 1937 (Saka)

No. 05

2.00 P.M.

Sh. Ram Niwas Goel, Hon'ble Speaker in-Chair
NATIONAL SONG-VANDE MATARAM

1. 2.02 P.M. Hon'ble Speaker welcomed all the Members of the House in the Special Session of Delhi Assembly and hoped that they would express their views efficiently and calmly. The Chair further stated that the persons in the Visitors' Gallery should maintain decorum & silence and should not obstruct or interrupt the proceedings by shouting, clapping, sloganeering or responding in any other manner whatsoever while sitting in the Gallery. He also requested the Media persons to switch off their Mobile Phones or to keep them on silent mode in the House.

2. **Ruling by the Chair :**

The Chair stated that two separate Notices of Calling Attention have been received from Sh. Vijender Gupta, Leader of Opposition and Sh. Om Prakash Sharma in which they have

3. 2.02 P.M.. **Obituary References:**

The House made obituary references to the following :

1. Shri Vinod Kumar Sharma, Ex-MLA, First Delhi Legislative Assembly (1993-1998)
2. Shri Bharat Singh, Ex-MLA, Fourth Delhi Legislative Assembly (2008-2013)
3. Heavy loss of life and property due to earth quake in Nepal and North India.

The House also observed two minutes silence as a mark of respect for the departed souls.

4. 2.15
P.M..

Papers laid on the Table:

1. **Sh. Manish Sisodia**, Deputy Chief Minister laid the copies of the Annual Report of Geospatial Delhi Limited for the year 2012-13.
2. **Sh. Gopal Rai**, Minister of Transport laid the copies of the Annual Report of DMRC for the year 2013-14 (both Hindi & English).
3. **Sh. Sandeep Kumar**, Minister of Women & Child Welfare laid the copies of Annual Report for the year 2013-14 & One special report on Mental Health Care of Children.

5. 2.17 P.M.. **Special Mention(Rule 280):**
Following Members raised their matters under Rule-280:
1. Sh. Naresh Balyan
 2. Sh. Akhilesh Pati Tripathi
 3. Sh. Om Prakash Sharma
 4. Sh. Jagdish Pradhan
 5. Sh. Jarnail Singh(Tilak Nagar)
6. 2.29 P.M.. The Chair ruled that the matter raised by Sh. Jarnail Singh (Tilak Nagar) be referred to the Committee of Privileges. He directed the Committee to consider the said issue and inquire into the matter at the earliest.
7. 2.30 P.M.. **Motion under Rule-107 :**
Sh. Manish Sisodia, Hon'ble Deputy Chief Minister moved the following Motion under Rule-107 :
“That this House discuss the issues arising out of the notification No. 1080 dated 21st May, 2015 issued by Ministry of Home Affairs, Government of India.”
8. 2.45 P.M.. The Following Members participated in the debate:
1. Sh. Kapil Mishra
 2. Sh. Jarnail Singh (Rajouri Garden)
 3. Sh. Adarsh Shastri
 4. Ms. Bhavana Gaur
 5. Sh. Rajesh Gupta
 6. Sh. Imran Hussain
 7. Sh. Rajender Pal Gautam
9. 4.00 P.M.. **The Chair adjourned the House for 30 minutes for Tea-Break.**
10. 4.31 P.M.. **House reassembled.
Hon'ble Speaker in Chair.**
11. 4.32 P.M.. **Discussion on Motion under Rule-107 continued.**
8. Ms. Alka Lamba
12. 4.42 P.M.. Members of Bhartiya Janta Party Sh. Vijender Gupta, Sh. Jagdish Prashan & Sh. Om Prakash Sharma raised their objections on the views expressed by Ms. Alka Lamba in her speech.
They stood up on their seats and requested the Chair to expunge the remarks made by Ms. Alka Lamba.
The Chair stated that the objectionable remarks, if any, be expunged from the proceedings of the House.

13. 4.50 P.M.. Hon'ble Speaker also made a brief statement regarding the said Notification issued by the Ministry of Home Affairs, Government of India.
Sh. Om Prakash Sharma, Member of Bhartiya Janta Party made some derogatory remarks against the Chair.
- Hon'ble Speaker named Sh. Om Prakash Sharma for his indecorous behaviour.**
14. 4.53 P.M.. **Discussion continued.**
9. Sh. Anil Kumar Bajpai
15. 5.06 P.M.. Sh. Manish Sisodia, Hon'ble Deputy Chief Minister stated that the special session of the House has been convened in view of the extra ordinary circumstances and the people of Delhi have great expectations from the outcome of present discussion in the House. He further stated that it was a serious issue and the discussion should be non-political and above party lines. He requested the Members of the House to maintain the decorum during discussion and not to deviate from the issue of the Motion.
16. 5.10 P.M.. **Discussion Continued...**
10. Sh. Vijender Gupta
11. Sh. Gulab Singh
12. Sh. Surender Singh
13. Sh. Girish Soni
17. 6.08 P.M.. Sh. Somnath Bharti requested the Chair to grant permission to move a Private Members' Resolution under Rule-89 in relaxation to 12 days prior notice requirement. The Chair stated that under the Rule-293, Speaker has power to accept any Question, Resolution or any other matter and his decision shall not be questioned. However, he placed the matter for consideration of the House. The Motion was put to vote and adopted by voice-vote.
18. 6.10 P.M.. **Resolution under Rule-89 :**
Sh. Somnath Bharti moved the Resolution under Rule-89 regarding Notification issued by Ministry of Home Affairs, Govt. of India.
(Text of the Resolution is Annexed herewith.)
19. 6.22 P.M.. **Sh. Vijender Gupta and Sh. Jagdish Pradhan, Members of Bhartiya Janta Party walked out from the House in protest against the aforesaid Resolution.**
20. 6.23 P.M.. Sh. Somnath Bharti continued his speech.

21. 6.41 P.M.. Hon'ble Speaker stated that the discussion on Resolution under Rule-89 will be continued tomorrow due to constraint of time.
22. 6.42 P.M.. **The Chair adjourned the House upto 2.00 PM on Wednesday, 27th May 2015.**

Delhi
26th May, 2015

P.R. Meena
Secretary

Private Member's Resolution moved by Shri Somnath Bharti. - 26/5/15

1. The Ministry of Home Affairs has issued a Notification No. S.O.1368(E) dated 21st May, 2015, through which it has sought to add entry no.41 of the State List to the list of reserved subjects.
2. All the reserved subjects i.e. subjects which are beyond the legislative competence of the Legislative Assembly of National Capital Territory of Delhi, are explicitly mentioned in Article 239AA (3)(a), (b) & (c) and do not give any powers to the Central Government to add any entries to the list of reserved subjects through notification.
3. The Ministry of Home Affairs has attempted to add entry no.41 to the list of reserved subjects without seeking the approval of the Parliament of India.
4. The Ministry of Home Affairs has passed this notification without any jurisdiction to do so. Therefore, it is an illegal and invalid exercise of powers on the part of the Ministry of Home Affairs.
5. The said notification, without any doubt, is contrary to and is violative of the provisions of the Constitution of India.
6. This house finds this act of Ministry of Home Affairs as an attempt on the part of the Central Government, to encroach upon the Legislative Powers of this August House conferred by the Constitution, in a completely unconstitutional and illegal manner, by bypassing the Parliament and thereby even grabbing the powers of the Parliament itself.
7. Therefore, this house declares this notification as unconstitutional and invalid.

8. I would also like to bring to the notice of this August House the opinions received from the Constitutional Experts and Legal Luminaries like

1. Shri Gopal Subramaniam
2. Shri K.K. Venu Gopal
3. Shri Rajeev Dhawan
4. Ms. Indira Jaising
5. Shri Bishwajit Bhattacharyya
6. Shri Vivek K. Tankha

All of them have very emphatically stated that the said notification is unconstitutional and illegal.

9. In a democracy, the Parliament of India through its Hon'ble Members of Parliament is supreme and the Hon'ble Members of Lok Sabha and Rajya Sabha are the only authorised persons empowered under the Constitution of India to make changes in the Constitution under Article 368 of the Constitution of India. Therefore, the Central Government has sought to encroach upon the powers of Parliament also through this notification.

10. The Hon'ble High Court of Judicature at Delhi in its recent order in the bail matter of Anil Kumar Vs. GNCT of Delhi, pronounced on 25th May 2015, has given a land mark judgement on the relationship between the Hon'ble Lieutenant Governor and his Council of Ministers. The copy of the said judgement is being presented to this August House for information of Hon'ble Members of this Legislative

Assembly. In particular, I would like to quote the following from the decision of the Hon'ble High Court:-

"65. Thus, it appears to me, that the Union Government could not have issued the notification dated 23.07.2014 thereby seeking to restrict the executive authority of the GNCTD acting through its ACB to act on complaints under the PC Act only in respect of officers and employees of the GNCTD. By an executive fiat, the Union Government could not have exercised the executive power in respect of a matter falling within the legislative competence of the Legislative Assembly of the NCT, since the law made by Parliament, namely the GNCTD Act read with Article 239 AA put fetters on the executive authority of the President.

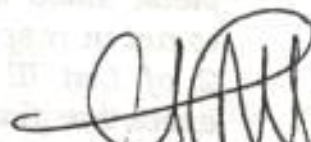
66. After the judgement was reserved in the present application, the Ministry of Home Affairs has issued a notification bearing No.SO 1368(E) on 21.05.2015 thereby further amending the notification dated 08.11.1993 and, inter alia, providing that "ACB police station shall not take any cognizance of the offences against officers, employees and functionaries of the Central Government". In my view, since the Union lacks the executive authority to act in respect of matters dealt with in Entries 1 & 2 of List III of the Seventh Schedule, the further executive fiat issued by the Union Government on 21.05.2015 is also suspect."

11. This house strongly condemns such attempt on the part of the Central government and finds it an assault on the federal structure of our country as enshrined in the Constitution of India.

12. Therefore, this house resolves to ignore this notification of Ministry of Home Affairs and directs the Government of National Capital Territory of Delhi and its employees to ignore it and to function as if this notification did not exist.

13. Further, this house urges his Excellency the President of India to invoke his powers under Article 143 and to make a reference to the Hon'ble Supreme Court of India to clearly define the powers and responsibilities of the elected Government of National Capital Territory of Delhi, the Hon'ble Lieutenant Governor of the Delhi and Central Government with respect to Legislative and Executive functions of National Capital Territory of Delhi, to prevent recurrence of such incidents in future.

14. I would further urge this house to write to all Hon'ble Members of parliament of Lok Sabha and of Rajya Sabha about the unconstitutional act of Ministry of Home Affairs, Government of India.



(Somnath Bharti)