

DELHI LEGISLATIVE ASSEMBLY
Bulletin Part-I
(Brief summary of proceedings)
Wednesday, 27th May, 2015/ 07 Jeyshta, 1937 (Saka)

No. 06

2.00 P.M.

Sh. Ram Niwas Goel, Hon'ble Speaker in-Chair

1. 2.01 P.M. Sh. Om Prakash Sharma stood up on his seat and stated that yesterday; unparliamentary language was used against the persons working on constitutional posts.
The Chair stated that the said objectionable words have already been expunged from the proceedings of the House.
Hon'ble Speaker further stated that Hon'ble Chief Minister had requested all the Members of the House yesterday that they should present their views in the House with dignity and should not make allegations and counter allegations. The Chair requested the Members that they should not mention name of any person who is not present in this House.
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. 2.05 P.M. **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 called the attention towards the situation arising out of frequent power cuts and acute scarcity of water in East & North-East Delhi and in Night Shelters of Delhi.
The Chair Ruled that as per the Rule-54(1) of Rules of Procedure and Conduct of Business, the Notice of Calling Attention should reach in the Assembly Secretariat three hours before the commencement of the sitting whereas the Notices from Hon'ble Members were received at 12:05 P.M.. & 12:30 P.M.. respectively. Hence the Chair disallowed the Notice of Calling Attention.
Hon'ble Speaker stated that a Notice of Censure Motion under Rule-114 has also been received from Sh. Vijender Gupta, Leader of Opposition. The Chair Ruled that the said Notice is not admissible as there is no provision of Censure Motion in the Rules of Procedure and conduct of Business.

3. 2.10 P.M. Members of Bhartiya Janta party stood up on their seats and displayed placards and black badges in protest against the alleged shortage of water in Delhi.
Hon'ble Speaker requested them to take their seats.
They walked out of the House in protest.
4. 2.12 P.M. Members of Bhartiya Janta Party came back in the House.
5. 2.15 P.M. **Special Mention (Rule 280):**
Following Members raised matters under Special Mention (Rule 280):
1. Sh. Jagdish Pradhan
 2. Ms. Alka Lamba
 3. Sh. Kailash Galhot
 4. Sh. Om Prakash Sharma
 5. Sh. Pankaj Pushkar
 6. Ms. Rakhi Birla
 7. Sh. Vijender Gupta
 8. Sh. Jarnail Singh (Rajouri Garden)
6. 2.38 P.M. **Statement by Minister of Home :**
Sh. Satyender Jain, Hon'ble Minister of Home made a statement regarding denial of treatment to a rape victim by the Safdarjang Hospital authorities. He stated that such unfortunate situation has occurred because of the said Notification issued by the Ministry of Home Affairs, Govt. of India. He requested the Govt. of India to withdraw the Notification as it has created a state of confusion.
7. 2.41 P.M. **Discussion on Resolution under Rule-89 :**
Further discussion on the Resolution moved by Shri Somnath Bharti.
Following Members participated in the debate :
1. Sh. Gopal Rai
 2. Ms. Bandana Kumari
 3. Sh. Madan Lal
(Sh. Manish Sisodia, Hon'ble Deputy Chief Minister intervened.)
 4. Ch. Fateh Singh
 5. Sh. N.D. Sharma
 6. Sh. Jagdish Pradhan
 7. Sh. Sanjeev Jha
 8. Sh. Kapil Mishra
 9. Sh. S.K. Bagga
 10. Sh. Amantullaha Khan
 11. Sh. Prakash

12. Sh. Rajesh Rishi
13. Sh. Ajay Dutt
8. 4.04 P.M. **The Chair adjourned the House upto 4.30 P.M.. for tea-break.**
9. 4.32 P.M. **House reassembled.**
Smt. Bandana Kumari, Hon'ble Deputy Speaker-in-chair.
10. 4.33 P.M. **Discussion on Resolution under Rule-89 continued :**
14. Sh. Rituraj
15. Sh. Ved Prakash
16. Ms. Sarita Singh
17. Sh. Jagdeep Singh
18. Sh. Akhilesh Pati Tripathi
19. Sh. Mohinder Goel
20. Sh. Dinesh Mohaniya
21. Sh. Sukhbir Dalal
22. Ms. Promila Tokas
11. 5.45 P.M. **Hon'ble Speaker in Chair.**
Ms. Promila Tokas continued....
12. 5.47 P.M. 23. Sh. Om Prakash Sharma
13. 6.02 P.M. Sh. Somnath Bharti, Hon'ble Member requested the Government that the Chairmen of DERC and all power companies be summoned immediately in view of the deliberate power cuts and load-shedding in Delhi.
14. 6.04 P.M. Sh. Madan Lal, and Sh. Kailash Gahlot, Hon'ble Members moved the following amendments in the Resolution presented by Sh. Somnath Bharti under Rule-89:
1. Para 7 of the resolution to be deleted. Para 8 be treated as Para 7 of the resolution.
 2. A new Para 8 be inserted in the resolution which states:
"This House, therefore, is of strong and unambiguous opinion that this notification is unconstitutional and invalid and experts the Government of NCT of Delhi to take all such necessary action, as it deems fit."
 3. The wording of Para 12 mentioned in the resolution be replaced with the following:

"The Government of NCT of Delhi has not so far brought any legislation before this House regarding entry 41of

the State List. This house recommends the Government to bring a legislation for creation of a NCT Public Service.”

Sh. Kapil Mishra, Hon’ble Member moved that the Resolution be amended by inserting following paragraph :

“Several members of this House have brought to the notice of this August House that the situation in Health, Power, Water and some other essential services have started deteriorating since the issue of the notification,. As this notification has brought confusion in the minds of the officers and employees of the Government. This resulted in indiscipline and complacency amongst the officers and the employees, thereby affecting the essential services.

In view of this, even though this House strongly feels that the Ministry of Home Affairs notification as illegal, however, for the purposes of smooth and quick solution to the issues and problems of people of Delhi, while not conceding that the ‘Services’ as a entry is with the Central Government, still the ‘Services’ includes work allotment to the officers and employees of the Government. Hence, this House directs the Council of Ministers to continue allocating the work to its officers and employees.

The House expects the officers and employees of the Government to follow the orders related to work allotment without any fear. This House assures them that as long as they continue working sincerely in the service of the people of Delhi, this House will not let any officer or employee be victimized by any extraneous element, whatsoever.

15. 6.10 P.M. Sh. Vijender Gupta, Hon’ble Leader of Opposition also presented his views on the Resolution moved by Sh. Somnath Bharti.
16. 6.20 P.M. Members of Bhartiya Janta Party walked out of the House in protest against the Resolution.
17. 6.22 P.M. The amendments moved by Sh. Madan Lal, Sh. Kailash Gahlot & Sh. Kapil Mishra were put to vote and adopted by voice-vote.

18. 6.23 P.M. Hon'ble Speaker stated that Sh. Avtar Singh Kalka, Sh. Som Datt, Sh. Nitin Tyagi, Sh. Vishesh Ravi, Sh. Pankaj Pushkar also wanted to participate in the debate on Resolution but these Hon'ble Members could not be allowed due to time constraint.
19. 6.25 P.M. Sh. Manish Sisodia, Hon'ble Deputy Chief Minister replied to the debate.
20. 6.55 P.M. Sh. Arvind Kejriwal, Hon'ble Chief Minister replied to the debate.
21. 7.25 P.M. The Resolution as amended (under Rule-89) was put to vote and adopted by voice-vote.
(Text of amended Resolution is annexed.)
22. 7.27 P.M. The Chair expressed thanks to the Chief Minister, Deputy Chief Minister, Leader of BJP and all the Members of the House and also Officers/Officials of the Assembly Secretariat, Chief Secretary & other Officers of the Delhi Government & other agencies like PWD (Civil/Electrical/Horticultures), Delhi Police, CRPF, MTNL, Delhi Fire Service, Security including Special Branch and Print & Electronic Media for their co-operation in smooth conduct of the Session.
23. 7.29 P.M. **House was adjourned sine-die.**
National Anthem- Jan-Gan-Man.

Delhi
27th May, 2015

P.R. Meena
Secretary

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 this article does 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. 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. Veņu 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.

8. This House, therefore, is of strong and unambiguous opinion that this notification is unconstitutional and invalid and expects the Government of NCT of Delhi to take all such necessary action, as it deems fit.
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. The Government of NCT of Delhi has not so far brought any legislation before this House regarding entry 41 of the State List. This house recommends the Government to bring a legislation for creation of a NCT Public Service.
13. Several members of this House have brought to the notice of this August House that the situation in Health, Power, Water and some other essential services have started deteriorating since the

issue of the notification, as this notification has brought confusion in the minds of the officers and employees of the Government. This resulted in indiscipline and complacency amongst the officers and the employees, thereby affecting the essential services.

In view of this, even though this House strongly feels that the Ministry of Home Affairs notification is illegal, however, for the purposes of smooth and quick solution to the issues and problems of people of Delhi, while not conceding that the 'Services' as a entry is with the Central Government, still the 'Services' includes only the conditions of service, and with no stretch of argument includes work allotment to the officers and employees of the Government. Hence, this House directs the Council of Ministers to continue allocating the work to its officers and employees.

The House expects the officers and employees of the Government to follow the orders related to work allotment without any fear. This House assures them that as long as they continue working sincerely in the service of the people of Delhi, this House will not let any officer or employee be victimised by any extraneous element, whatsoever.

14. Further, this house urges his Excellency the President of India to invoke his powers under Article 143 of Constitution of India 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.

15. 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.