

LOK SABHA

**SYNOPSIS OF DEBATES
(Proceedings other than Questions & Answers)**

Wednesday, August 1, 2018/Shravana 10, 1940 (Saka)

SUBMISSION BY MEMBERS

Re: Heavy rain and consequent sea erosion in the coastal areas of Kerala.

**THE MINISTER OF CHEMICALS AND FERTILIZERS AND
MINISTER OF PARLIAMENTARY AFFAIRS (SHRI ANANTHKUMAR)**

responding to the issue raised by several hon. Members, said: Several hon. Members have raised a very pressing issue regarding havoc in Kerala due to heavy rain and sea erosion. I assure him that I will bring it to the attention of the concerned Ministries. At the same time, the Central Government will provide all the assistance to the suffering people.

***MATTERS UNDER RULE 377**

1. **SHRI RAMEN DEKA** laid a statement regarding flood problem in Assam.

* Laid on the Table as directed by the Chair.

2. **SHRI FAGGAN SINGH KULASTE** laid a statement regarding need to provide adequate relief package and alternative land to people displaced by wildlife sanctuaries in the country.
3. **SHRI LAKHAN LAL SAHU** laid a statement regarding need to extend benefits of Government welfare schemes to all the villagers under Bilaspur Parliamentary Constituency, Chhattisgarh.
4. **SHRI JAGDAMBIKA PAL** laid a statement regarding compensation to farmers of Siddharthnagar district, Uttar Pradesh.
5. **SHRI RAMESHWAR TELI** laid a statement regarding need to set up a Petroleum Research Institute in Dibrugarh, Assam.
6. **SHRI SUBHASH CHANDRA BAHERIA** laid a statement regarding need to construct under-bridges on National Highway No. 79 in Bhilwara Parliamentary Constituency, Rajasthan.
7. **SHRI VISHNU DAYAL RAM** laid a statement regarding customer services in Garhwa post office in Palamu Parliamentary Constituency, Jharkhand.
8. **DR. BANSHILAL MAHATO** laid a statement regarding need to set up a Medical College in Korba, Chhattisgarh.
9. **SHRI GOPAL SHETTY** laid a statement regarding development projects in Dahanu Taluka in Maharashtra.

10. **DR. SUNIL BALIRAM GAIKWAD** laid a statement regarding extension of services of Latur Express train.
11. **SHRI PARBHUBHAI NAGARBHAI VASAVA** laid a statement regarding need to include banana under Pradhan Mantri Fasal Bima Yojana.
12. **SHRI SHARAD TRIPATHI** laid a statement regarding need to formulate a comprehensive plan to address water-logging problem in cities during rainy season.
13. **SHRI R. DHRUVANARAYANA** laid a statement regarding the inclusion of two temples of Karnataka under PRASAD Scheme.
14. **SHRI M.I. SHANAVAS** laid a statement regarding need to check illegal sale of private data of people.
15. **DR. KARAN SINGH YADAV** laid a statement regarding acquisition of land for Delhi-Mumbai Industrial Corridor.
16. **SHRI T. RADHAKRISHNAN** laid a statement regarding inclusion of Madurai in Bilateral Air Service Agreement (BASA) with Middle East and Far East countries.
17. **SHRI S. RAJENDRAN** laid a statement regarding making Villupuram Junction a model station in Tamil Nadu.

18. **SHRIMATI PRATIMA MONDAL** laid a statement regarding need to complete construction of platform at Chandkhali Halt Station in West Bengal.
19. **SHRI KALIKESH N. SINGH DEO** laid a statement regarding construction of a bypass on National Highway No. 26 at Bolangir in Odisha.
20. **SHRI VINAYAK BHAURAO RAUT** laid a statement regarding need to rename 'Bombay High Court' as 'Mumbai High Court'.
21. **SHRI DHANANJAY MAHADIK** laid a statement regarding need to set up a bench of Bombay High Court in Kolhapur, Maharashtra.
22. **SHRI SHAILESH KUMAR** laid a statement regarding need to include development works executed by Zila Panchayat authority under Mahatma Gandhi National Rural Employment Guarantee Scheme.
23. **SHRI PREM SINGH CHANDUMAJRA** laid a statement regarding releasing funds to channelize Sawan Nadi in Punjab.
24. **SHRI PREM DAS RAI** laid a statement regarding reservation of Limboo-Tamang communities of Sikkim in the State Legislative Assembly.

25. **SHRI C. N. JAYADEVAN** laid a statement regarding handling over of land owned by Department of posts to Thrissur Municipal Corporation in Kerala.

OBSERVATION BY THE DEPUTY SPEAKER

HON'BLE DEPUTY SPEAKER: "Hon'ble Members, before we take up the Statutory Resolution and the Bill listed at Sl. Nos. 13 and 14 respectively in today's List of Business together for combined discussion, Hon'ble Members would recall that during the combined discussion on the Statutory Resolution and the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2018 yesterday, Shri Mallikarjun Kharge raised a point that after the Minister introduces the Bill and speaks, it is the prerogative of the opposition party to initiate the discussion. This is a wrong precedent. It is my request that it should not be clubbed like this". Shri Kharge also submitted that "it is the right of the main opposition party to initiate the discussion. We are not given that opportunity and Members from other parties have been allowed to speak in between. It is not a good thing."

In this regard, I would like to inform the House that the subject matter of the Statutory Resolution for disapproval of the Ordinance and the Ordinance replacing Bill is similar in nature. Therefore, it would not be appropriate to discuss both the items separately.

Accordingly, as per well-established practice, the Statutory Resolution seeking disapproval of the Ordinance and the Bill seeking to replace the Ordinance are discussed together to save the time of the House. The practice of listing both the items for combined discussion has stood the test of the time and therefore does not seem to require any change.

The procedure being followed in such cases is that first, the Member in whose name the Statutory Resolution is listed, moves the Resolution and, thereafter, the Minister-in-charge of the Bill moves the motion for consideration of the Bill and speaks. After the speech of the Minister, mover of the Statutory Resolution is allowed to speak on the Ordinance as well as the Bill because he cannot be given second chance to speak on the Bill separately. After the speech of the mover of the Statutory Resolution, Members from various parties are called to speak as usual on the basis of party strength."

STATUTORY RESOLUTION

***Re: Disapproval of the Commercial Courts, Commercial Division and
Commercial Appellate Division of High Courts (Amendment)
Ordinance, 2018 (No. 3 of 2018)***

And

**THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND
COMMERCIAL APPELLATE DIVISION OF HIGH COURTS**

(AMENDMENT) BILL, 2018

SHRI N.K. PREMACHANDRAN moved that this House disapproves of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 (No. 3 of 2018) promulgated by the President on 3rd May, 2018.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI RAVI SHANKAR PRASAD) *moving the motion for consideration of the Bill, said:*

This Bill is a larger narrative pursuance to ensuring India's performance in 'ease of doing business', ensuring quicker adjudication of commercial disputes. Most importantly, a proper pre-litigation mediation is being involved in doing this. I am very happy to share with the House that when we had come to power, we were at 142nd place in the ranking as far as 'ease of doing business' is concerned. We have two systems. Delhi High Court has original jurisdiction and so has the Bombay High Court, Madras High Court, Calcutta High Court and Himachal Pradesh High Court. The suit had to be filed there in the Commercial Appellate Division. In the rest of the country, a suit even of Rs.5,000 crore will be filed in the district court. Then, it goes to the High Court. We must have adequate space for fast track

adjudication of commercial disputes so that the person can take a call to remain there or not to remain there. Good governance is also an important component of an economy. In the Original Act, expansive definition of what a commercial dispute has been given. With this amendment, limit has been reduced to rupees three lakh from rupees one crore, but the Government must give latitude to the State Government and the High Court to take a call so that the amount of rupees three lakh should not become completely a base parameter for that. Moreover, a State Government, in consultation with the High Court, can create commercial courts as required. This legislation provides that there will be an Appellate Division at the district level even for a smaller dispute. One thing I would like to share with this House is that this is the most important commercial law initiative perhaps in the entire world where pre-mediation initiative has been given very important focus. Besides, I am not creating any new mechanism of mediation, but under National Legal Service Authority, mediators are already there all over the country. We are only making use of their services. Thus this enormous focus on use of alternative dispute mechanism forum is a very important component of this Bill. In addition to it, the Government is taking measures to ensure speedy disposal of the disputes. I am going to urge the High Courts and the Supreme Court of India to ensure that 5,000 vacancies of the Subordinate Judiciary are also

filled at the earliest. I am saying this because we do not have any power nor the State Governments have any power in this regard.

SHRI N.K. PREMACHANDRAN *initiating said:* I strongly oppose the Ordinance route of legislation. I would suggest the hon. Minister that the long title and the short title of the Bill should be changed. There are four important proposals or amendments which have been brought in the Ordinance. I would like to know from the hon. Minister as to what is the urgency is giving effect to these four amendments. Regarding the Bill, I am not opposing it in toto, but I have some reservations regarding the spirit of the Bill. When we are making complaints regarding pendency of suits in various courts, we the Parliament and the Government have to keep in mind that we are further overburdening the judiciary by making enactments one after the other. New courts are not being constituted. The courts have to give preferential treatment to criminal disputes. It will then definitely adversely affect the other cases which are pending before the court and the pendency of the litigation will increase. Whenever the Government comes with a legislation as a result of which there is possibility of increase in litigations, proportionate increase in judicial infrastructure has to be made. The Government is reducing the specified value of a commercial dispute from Rs.1 crore to Rs.3 lakh. I would like to ask the hon. Minister whether he has conducted any impact study on this. Our courts will be flooded with petitions of commercial disputes. I

fully agree and accept the new proposal of pre-institution mediation and settlement. This is the best course of action because we are having the Legal Services Authorities Act and it is functioning very well. When Government gives preferential treatment in the adjudication of commercial disputes, delivery of speedy and effective justice to other sections of the society should not be compromised.

SHRIMATI MEENAKASHI LEKHI: This Bill intends to strike a final balance between system of courts and the commercial activities. There will be dispute where there are commercial activities. With the expansion of industries and trades, this is but natural that disputes will arise. We need to put in place a system which could ensure the resolution of disputes in an effective manner. Earlier, commercial courts were functioning at high courts and district level courts. This law has been brought in just to set right that system and for speedy disposal of such disputes. This will improve our ranking in ease of doing business. Presently, we have improved from 130th to 100th rank. Jurisdiction has been brought down from Rs.1 crore to Rs.3 lakh after a study. In December, 2017, the Government had established a total of 247 commercial courts across the country. This is just one part of the correction to improve the ease of doing business. By bringing the jurisdiction to three lakhs, we will actually be bringing judicial accessibility to a large number of people. A completely new chapter of mediation has been added.

Earlier, there was a problem in transferring the counter claims. Now, with this, we have even resolved that particular issue. Because of so many litigations, even the winding up of business had become a problem. Successful reforms are being carried out to improve India's ranking worldwide so that we can get more and more FDI; we can showcase our economy and we can jump the rank. We have replaced France by becoming the sixth largest economy. It is with *saaf niyat* and *sahi vikas* that these changes have been brought in.

SHRI S.P. MUDDAHANUME GOWDA: I would request the hon. Law Minister to let the country know what was the imminent urgency he had in bringing this legislation through the Ordinance route. I would also like to ask the Government about the reasons to reduce the pecuniary jurisdiction of the quantum from Rs.1 crore to Rs.3 lakh. The Government should create more infrastructure, appoint more judges and ease out the burden of the sitting judges both in the subordinate judiciary as well as the higher judiciary. You are bringing the provision of pre-institutional mediation and settlement. There is also a provision created for a litigant. To avoid this provision, if he makes an interim application, then the matter is taken away from this provision. Anybody can file an interim application and file a petition before the commercial court. This august House has given special status to Hyderabad-Karnataka keeping in mind the backwardness of that area. Six districts are included in it, namely, Gulbarga, Bidar, Yadgir, Koppal,

Raichur and Bellary. Fortunately, three benches were created in Karnataka. One is in Bengaluru, the second one is in Hubli-Dharwad and the third one is in Gulbarga. Out of the six districts, two districts are taken away from the territorial jurisdiction of this court and are given to the High Court at Hubli-Dharwad. My humble request to the Government is to please see that these two districts are kept intact in the territorial jurisdiction of Gulbarga High Court.

SHRI J.J.T. NATTERJEE: Reduction in the pecuniary jurisdiction of Commercial Courts from one crore rupees to three lakh rupees will over-burden the Commercial Courts and defeat the objective of their establishment. The courts in India are already over-burdened with high pendency of cases. As of April 2018, there are over three crore cases pending and between 2006 and April 2018, there has been an 8.6 per cent rise in the pendency of cases across all courts. This has resulted in the increase of under trials in prisons. The Bill does not clarify whether the cost of setting up of new commercial courts will be borne by the Union Government or by the State Governments or both. Also, the overall vacancies of judges have increased across all courts. The establishment of more Commercial Courts would require more judges and the Government should provide the courts with adequate number of judges.

SHRI IDRIS ALI: This Bill seeks to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act,

2015, and also seeks to replace the Commercial courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018. Setting up of commercial courts would certainly give some relief to the people. But the Government has to appoint suitable judges for the purpose and they should also be provided training in micro economics. There is a huge backlog and a large number of vacancies exist in courts. Unless those vacancies are filled early, any number of creating additional machineries may not solve the problem of accumulation of cases. Unless all the vacancies of the Judges are filled up in the regular courts, the problem of disposal of cases will never get solved. It is a fact that you have created Commercial Courts but for that purpose you have not created new posts of Judges to deal with the commercial matters. In effect, a Judge, who is taking up the criminal matters, is also becoming a Judge for commercial matters. Lastly, I would urge upon the Government to make sure that a poor person gets justice at his doorsteps at all levels and so, necessary steps may be initiated without further loss of time.

DR. SHRIKANT EKNATH SHINDE: The pecuniary jurisdiction of the Commercial Courts will be brought down from present Rs.1 crore to just Rs.3 lakh with this amendment. There will be provisions whereby the State Governments will be able to establish Commercial Courts. The original laws was enacted for the speedy resolution of commercial disputes. Pendency of cases is a major challenge

in front of our Judiciary. As on today, more than three crore cases are pending in various courts across the country. Commercial disputes need to be resolved speedily because it affects the investment in the country and the overall economy. The speedy resolution of commercial cases is important for ease of doing business. The speedy recovery of commercial disputes may go a long way in assuring and comforting investors. I appreciate Government's concern. As on today, more than 39,000 cases are pending in commercial courts. The vacancy of judges is the major reason behind these large pendencies. Various measures were suggested to overcome this problem. Unfortunately, the Government has not yet made any move in this direction. More than 400 posts of judges are vacant in 24 High Courts of this country. I urge upon the Government to bring a Bill to increase the retirement age of Supreme Court and High Court Judges. The infrastructure should also be improved. I request the Government to consider all these suggestions.

DR. A. SAMPATH: This House is the supreme legislative body of this nation and legislation through ordinance is not good. The Standing Committees have a duty to scrutinize the laws. We are a nation in which the largest number of under trial prisoners are languishing behind the bars. There are a large number of vacancies in the Judiciary and the ratio of judicial officer per lakh people is very low in India vis-à-vis European countries and also some developing countries.

Even one per cent of the total GDP is not earmarked for dealing with law and justice matters and for the courts of this country. This Bill is related with commerce. It is related with money. It is related with machines and not with man. When there is a battle between man and machine and man and the money, I stand with the man. We have to stand for the common people. The duty of the Government is to provide justice to the common people. In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, the government is putting more burden upon the shoulders and heads of the existing judiciary. The Government should appoint more judges, provide more money to the judiciary and establish more courts. The Supreme Court should have branches elsewhere also.

DR. BOORA NARSAIAH GOUD: Why London, Singapore, Hong Kong and Dubai are successful commercial spots? That is because there is an effective dispute redressal system. But what is happening in our country? Justice delayed is justice denied. Today, for a commercial redressal system, the average time taken is four years. The most important thing in this Bill is the inclusion of a dispute redressal system through mediation which may work out effectively. You are drawing judges from the same pool of judges. Already there are a lot of vacancies pending. If you draw the same judges to the commercial courts, then the pendency of cases will increase. I would urge the hon. Minister to create parallel commercial

courts, including infrastructure as well as judges and staff. Then only it will be of some utility. We should have a time-bound judgement. We should disincentivize the lawyers who go for more adjournments. I fully support the Bill.

SHRI ASADUDDIN OWAISI: As stated by an hon. Member as many as 32,656 civil suits are pending in five High Courts in original jurisdiction of our country and of it 51.7 per cent pertain to commercial disputes. I wish to say to the hon. Minister that the proposed Bill is not a magic wand whereby you waive it and every issue will be solved. I want to know from the hon. Minister what is the hard and fast solution that the Government is producing over here, without filling up those vacancies of judges in various court. I feel the government is not at all interested in filling up vacancies in the Supreme Court, the High Courts and the subordinate courts. Earlier, the State Governments could appoint judges with the concurrence of Chief Justice of the concerned High Court. But now the government has given the power to appoint judges without the concurrence of the Chief Justice of the concerned High Court. But how can the Chief Minister of a State appoint a judge without the concurrence of the Chief Justice of the High Court? This will not stand the test of law. I would like know as to why this Government is not giving a separate High Court to my State of Telangana.

SHRI PINAKI MISRA: The Government has brought down the denomination value of these courts to Rs.3 lakh level. I am not able to understand

as to what can be the rationale behind it. It should actually have been brought to at least Rs.5 crore. The second issue deals with the appointment. These fast-track courts also will become meaningless without adequate appointments. The hon. Minister has to answer to this hon. House for this present frightening situation. Today, 143 cases of judicial appointments in the High Courts and the Supreme Court are pending with the Government. Even in the collegium of High Courts, there is a massive discord. As a result of this, there is no unanimity of names being given to the Government. The Government is also to be blamed for the manner in which the names have been sent back. The law Department ought to ensure that the system of Indian judiciary must flourish. This piece of legislation is going to further add to the burden.

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SNEHLATA SHRIVASTAVA
Secretary General

**Supplement covering rest of the proceedings is being issued separately.

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NOTE: It is the verbatim Debates of the Lok Sabha and not the Synopsis that should be considered authoritative.

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