

LOK SABHA

SYNOPSIS OF DEBATES (Proceedings other than Questions & Answers)

Friday, January 4, 2019 / Pausha 14, 1940 (Saka)

SUBMISSION BY MEMBER

Re: Revoking suspension of Members of AIADMK and TDP

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION(SHRI ARJUN RAM MEGHWAL) *responding to the issue raised by an hon. Member, said:* I would like to submit that a meeting of all party leaders should be convened. Having said that, this kind of indiscipline must not be allowed to take place.

Thereafter, the Speaker made the following observation:-

HON'BLE SPEAKER: I just cannot take any decision. It is because who will assure that they will not do something like that. It is sending a very bad message not only about politicians but also about Members of Parliament who are representing lakhs of people. We will discuss it in my chamber. I think, it is better that all leaders should come together and discuss about it. I have no objection.

DISCUSSION UNDER RULE 193

Re: Issues related to Rafale Deal - Contd.

SHRI DHARMENDRA YADAV: The Indian Army had been insisting for fighter planes since the year 2002 just after the Kargil war. Unfortunately the UPA Government could not take any decision in this regard till the year 2014. An agreement for the purchase of aircraft was signed in the year 2016 but the aircraft which was priced at Rs. 526 crore was purchased at Rs. 1600 crore. Secondly, the NDA Government signed the offset contract with the private companies after scrapping the offset contract with the HAL. The Government should allay these apprehensions. I would also like to know about the difference in the aircraft which was approved by the UPA Government and which was later on purchased by the NDA Government. I would also like to know whether the Defence Minister and the Defence Secretary were in France when the agreement was signed in this respect. I demand the constitution of a JPC on this issue.

SHRI A.P. JITHENDER REDDY: If we go to the issues of defence, there are issues of much more urgent concern, like upgrading our ageing fleet of ships, aircraft, border security, lack of ammunition, expenditure on R&D and welfare of our veterans are all areas of concern on which also a constructive debate can take place. The HAL has been rendered lethargic over the years. Its productivity,

research funding, recruitment and product quality require a deep questioning. I would request the Defence Minister to also see as to how much we are importing from other countries. Almost 99 per cent of the items are being imported into this country and nothing is being manufactured here. We have to really see that our PSUs are properly seen into and given opportunities. The opposition is asking for a Joint Parliamentary Committee. I too suggest that a JPC should be constituted on this.

SHRI JAI PRAKASH NARAYAN YADAV: Today we are discussing the issue of Rafale fighter jet deal in the House. In the first place, I would like to urge upon the government not to ignore the truth and let the constitution of JPC be in place. The nation needs loaf, clothing and shelter.

SHRI MALLIKARJUN KHARGE: Shri Arun Jaitley ji has referred to the judgment of the Supreme Court again and again but we have already expressed the opinion that the Supreme Court will not investigate such matter and the JPC is the only instrument available to find solution to this issue. The Supreme Court has not given any clean chit. It has just said that the material placed before it shows that the Government has not disclosed the pricing details even to the Parliament on the grounds that sensitivity of pricing details could affect the national security apart from breaching the agreement between the two countries. The pricing details have, however, been shared with the Comptroller and Auditor General and the Report of C&AG has been examined by the Public Accounts Committee. I would

like to ask as to when the CAG report has been tabled on the floor of the House? How the report can be tabled without the Speaker taking note of that? Who is responsible for this? The Supreme Court has been misguided. In December, 2012 the price of the Rafale aircraft was Rs. 526 crore and in November, 2016 the Government informed that the price is Rs. 670 crore. Then in the year 2017 the price was pegged at Rs. 1670 crore. Then the Government took a u-turn and argued that this is an inter-governmental agreement and the price of the aircraft cannot be disclosed because of the secrecy clause. But this secrecy clause prevailed earlier also when the price was disclosed. We would like to know as to why the advance and performance bank guarantee and sovereign guarantee were waived in this case. The Reliance has itself admitted that they have got the contract worth Rs. 1,30,000 crore. It is this reason that we are insisting that this is a scam involving Rs. 1,30,000 crore. It is a big scam and a JPC should be constituted to investigate it.

SHRI P.K. KUNHALIKUTTY: The Reliance is a newly formed company. It has got no experience. Why the contract was given to this company? The Hindustan Aeronautics Limited has experience. It is a Public Sector Company. So, on behalf of my Party, I also demand a JPC.

SHRI BHAGWANT MANN: The price of the Rafale aircraft was inflated from Rs. 526 crore to Rs. 1600 crore. The Government should tell the nation as to who were the persons accompanying the Prime Minister when he visited France.

Whether the Defence Minister and the Defence Secretary went to France along with him. I, therefore, demand that a JPC should be constituted.

SHRI ANURAG SINGH THAKUR: The opposition sought a discussion on an important issue and we expressed our willingness to hold a discussion. But the Congress Party took more than 20 days to prepare itself for this discussion. The national security is not paramount for them. This Government enters into defence agreements keeping national interest in mind. In fact, in their regime no defence deal would be completed without a 'deal' involved in it. There is a long list of scams perpetrated by them, be it Bofors, Submarine, Augusta Westland, National Herald case. All these scams took place to arrange political funding for the Congress Party. Now the Supreme Court's decision has come and it is a victory for our Armed Forces, of truth and that of the Government and at the same time this is a serious setback to the Congress Party. The Supreme Court has stated in detail that they looked into the pricing, procedure and the offset clause and found that there was no commercial favouritism. This also proves that this Government has strengthened the Armed Forces, and took this decision in the larger national interest. The Congress Party must know that they could not take a decision in this regard for ten long years and now they raise the issue relating to the Rafale. Finally, this deal has been completed by our Government. Had your Government clinched this deal, then our Government would not have at all required to procure these aircraft. I would like to ask as to why the name of one

family crops up repeatedly in defence deals. Today, our Armed Forces are happy, the Government is happy and the people of the country are also happy. The decision of the Hon. Supreme Court has established the truth in clear terms.

SHRI PREM SINGH CHANDUMAJRA: I believe that our country runs under a system. When there is an aberration in rules or regulations then the cases are filed in the courts. We all honour the decisions of the courts. I am surprised that the opposition parties have interpreted the decision of Hon. Supreme Court according to their own convenience. If the decision of Hon. Supreme Court is taken as a final word, then there was no need of any discussion or the constitution of a JPC. The Government has repeatedly stated that Rafale is not an aircraft alone, it has got weaponry also and the price of weaponry is separate. The opposition goes silent on this issue. My friends from the Congress party are perplexed as to how this Government could complete the deal of crores of rupees without any commission. There are a number of issues in the country as of now. There are issues relating to farmers. The Opposition is wasting the precious time of this august House by holding discussion on such issues.

SHRI KAUSHALENDRA KUMAR: The Government has completed the deal for procurement of 36 Rafale aircraft with the Dassault Aviation in a transparent manner. Our Government has completed this deal in a minimum possible time, though this deal was pending for ten long years. The opposition is constantly raising the issue of corruption in this deal. The Congress party has lost

its faith in Hon. Supreme Court. When the Supreme Court stated that there was no violation of rules in this deal, still this Government is being targeted for gaining some political mileage only. The Air Force of the country has also stated that this fighter aircraft is good for the defence of the country. Only issue is that of offset contract. The French Government and the Dassault Aviation have categorically stated that there was no pressure from the Government of India in this regard. The HAL has also stated that they were not in a position to manufacture Rafale. Our Air Force is going to receive 36 Rafale aircraft and our Air Force personnel are happy about it.

SHRI NISHIKANT DUBEY: It appears that the Congress Party now has no concern for the unemployed, for dalits and the likes. They are only concerned about the Rafale deal. The Hon. Defence Minister has released an RFQ. An issue has also been raised as to why only 36 Rafale aircraft are to be procured in place of 126. Assuming, if our Government signs a deal with one company for procurement of all 126 aircraft and some issues relating to spare parts crop up with that company or our relations with that country get soured, then in that case what is the best option for us. If the Government procure two squadrons each from separate companies, then it will be beneficial for us. But the Congress people are not able to understand it. I would like to tell you as to why the entire Congress party is so agitated about the Rafale deal. In fact, dealers of all major international defence companies have a link with the Congress party. They are fighting for their

share of commission. The Congress party has always compromised with the security of the country.

SHRI N.K. PREMACHANDRAN: It is well-established in the House that this Rafale Deal is a fit case for having a Joint Parliamentary Committee probe. This is the biggest political as well financial scam which the country has ever seen in the political history of independent India. This is violating all the procedures, conventions, precedents and also the mandatory Defence Procurement Procedure. We oppose and seek for a Joint Parliamentary Committee because it is lacking transparency, probity and public accountability. Secondly, it is violating the mandatory provisions of the Defence Procurement Procedure. Thirdly, it is promoting the financial interest of a particular company. Fourthly and very importantly, it is depriving the legitimate interest of a Public Sector Undertaking. Again, in regard to the announcement of the Prime Minister on 10th April, 2015, I would like to ask that how can the Prime Minister make an arbitrary announcement to purchase 36 aircrafts when an RFP for 126 aircrafts is pending, and that was at the final stage? I would also like to ask that whether any authority of the Indian Air Force or of Defence demanded to reduce the number of Rafale Jet Aircrafts from 126 to 36. If the Indian Air Force is in urgent need of the aircraft, why do they not agree for immediate purchase of 18 aircrafts in fly-away condition. I am not going into the pricing issue. But there is one very important point on which I am seeking an answer. It is about the Indo-French Joint Statement made on 10th

April, 2015 which says that the aircraft and associated systems and weapons would be delivered on the same configuration. If that be the case, why is there hike in price? As far as the selection of Indian offset partner is concerned, I would like to know whether he is an eligible product or service manufacturer. As per my knowledge, nothing is there. Unfortunately, instead of having a sovereign guarantee, the Government has approved a 'letter of comfort' from the Prime Minister of France. How can a 'letter of comfort' be equal to a sovereign guarantee when it is an inter-governmental agreement? Finally, my last point is that the court is totally misled by the Government. So, this is a best and a fit case for having a Joint Parliamentary Committee probe for which we demand.

THE MINISTER OF DEFENCE (SHRIMATI NIRMALA SITHARAMAN) *replying said:* This country will have to understand that Defence purchases are of national security related and, therefore, are very very important. National security is important whether they are in power or we are in power or any other party is in the ruling in this country. Firstly, let us understand how is our neighbourhood. Environment around India is very volatile and we have had wars both in the western frontier and in the northern borders. It is important for us to have peace in our neighbourhood and we will do everything to keep peace. But it cannot be at the cost of the operational readiness of our Armed Forces. We should recognise that timely getting of equipments for our Armed Forces should be the priority for any Government. If we take a look on how was our neighbourhood

developing in the last 10 years, we find that China added 400 aircrafts between 2014 and 2015. Fourth generation fighter aircrafts were all being added to the Chinese arsenal. Even fifth generation stealth fighters were being added. Pakistan also increased their total number of aircrafts by more than double. Our neighbours are increasing their capacity and we, who should have supplied the air force with enough power, the motion having commenced in 2001, under Atal Bihari Vajpayee get moving at snail's pace and we did not have even by 2014. In 2001, NDA gave in principle approval for the procurement of 126 MMRCA and Service Qualitative Requirements (SQRs) were also issued in 2006. Then the deal reached a deadlock in 2014. From 2006 when the SQRs were issued and in 2014, you leave the Government without anything bought. They were negotiating for 18 aircrafts to be bought in a flyaway condition and the rest were not yet to be produced with, let us say, the HAL. But your Government went away without even getting the 18 aircrafts in flyaway condition. I want to know why? Secondly, there is a minimum period required for the production of any complex platform. The assumption that these fighters are available off the shelf is really mistaken. The IGA, the Inter-Governmental Agreement, was signed on 23rd September, 2016. The first aircraft will be delivered in three years from the date and the last aircraft will come in 2022. This year, in September, you will have the first aircraft and the 36th aircraft will be here in 2022. Even in the 126 MMRCA proposal, the first aircraft was to be delivered in three years from the date of signature of the contract.

In the IGA, considering the necessity of an early procurement, the process of negotiation was completed in 14 months' time. The process of negotiation did not run for 10 years. We finished it in 14 months. Whereas, the then Defence Minister outside of this Parliament premises said that "where is the money"? I want to tell here is that the timeline for the payment, quantum of payment and percentage of the total cost of the payment for the aircraft separately for the weapon system are all well prepared and kept in the Ministry. Interestingly, we were also repeatedly told and reminded that they were about to complete the deal. The company CEO said that 95 per cent of the deal was all through but the only five per cent. It means that they knew also the payment schedule. Then, in February 2014, how did the Raksha Mantri come out to say where is the money? So, they did not intend buying the aircraft till something was done. Now, I again go back to the process and procedure in 2011. In 2011, the commercial bid for 126 MMRCA which started in 2001, that is, 10 years later, was opened and Dassault Aviation became the L-1. In fact, the then Defence Minister directed the independent monitors to examine this issue as to how L-1 emerged like this. The independent monitor cleared it. Then, in June 2012, even after the independent monitor cleared the process, they did not buy it, why? There were clearly two unresolved issues when this deal was deadlocked. One is, the Dassault Aviation could not tie up with the HAL to produce the 108 aircraft. These 108 aircraft were to be manufactured with the transfer of technology and the HAL was to be producing them. Secondly,

Dassault also did not stand guarantee for the 108 aircraft which were to be produced by the HAL because they needed more man hours and it means Indian Air Force will be buying it without a guarantee being issued by the Original Equipment Manufacturer. Therefore, the deal with the HAL could not be struck. Even the Standing Committee says that because they were not able to scale up faster, the Government at that time chose to give waivers for the non-performance of HAL rather than looking at the improvement of the performance of HAL. Moreover, the then Government, instead of doing anything to improve the condition of HAL has only given them waivers. ADA obtained from them altogether 53 temporary waivers and concessions which means, they were accommodating everything, the weaknesses, the problems and the challenges of HAL. But they addressed none of them. They could have done a lot but they have not done a thing. But I will give you the list of things that we have done for HAL. Presently, a number of procurement orders are in the pipeline for the HAL. There are 83 LCA Tejas Fighters order worth Rs.50,000 crore; 15 Combat Helicopters order worth Rs.3000 crore; 200 more helicopter orders worth Rs.20,000 crore; 19 Dornier Transport Aircrafts worth Rs. 3400 crore; helicopters worth Rs. 15000 crore; and Aero engines worth Rs.8400 crore. All of them put together, the total comes to Rs.1 lakh crore, which we have given for the HAL. Further, they talk about the HAL's capacity. HAL's capacity for Tejas production has been doubled from eight aircrafts to 16 aircrafts per year. It was producing only eight, and all

those who shed crocodile tears for HAL did not do anything to scale it up. HAL supplied only eight against the orders of 40 Tejas Fighter Planes between 2010 and 2016 and they did not bother about it. They did not do anything to improve its capacity. They did not do buying of 18 flyaway nor did they agree to make in India. They finished because something did not suit them. Now, they are saying, who gave the Prime Minister the authority to reduce 126 to 36? Let them understand that they also were planning to buy only 18, which is one squadron worth in flyaway condition and the rest was to be manufactured in India. Now, what we are telling them is that instead of one squadron, we will get two squadrons, which is 36 in flyaway condition. They are misleading the country by saying that the Prime Minister reduced 126 to 36. As far as two squadrons are concerned, whenever emergency purchase has to be made in this country, it is very clearly stated that IAF advises the Government, whether it is for our Government or any other earlier Government. Emergency purchases normally are always two squadrons, be it MIG mf, Mirage 2000 or MIG 29. So, buying two or 36 squadrons is not because somebody chose to do it but Indian Air Force normally advises the Government, whichever Government is in power. If there is an emergency purchase, it has to be two because that is the number with which they can adjust. Therefore, this time, instead of 18, we bought on the advise of the Air Force, 36 flyaway. I would also like to ask them one more thing about Augusta Westland. Why could they not give that helicopter order to HAL? Why did they

go to Augusta Westland? It is just because HAL would not give them anything. This entire campaign has been based on falsehood and totally irresponsible allegations. I want to say that Congress is misleading the entire country. Whenever we come up to give a response they are not even hearing. On pricing, Rs. 670 crore has already been disclosed in the Parliament as the basic price, whereas they say Rs.526 crore. I am talking about Rs.526 crore which they quote as MMRCA price. There is no confirmation that it is Rs.526 crore per aircraft in the official documents. In a like-to-like comparison, the price obtained in the 126 Medium Multi-Role Combat Aircraft about which they are constantly talking, the price would be Rs.737 crore. The price obtained in the inter-governmental agreement that we have signed in 2016 and that price which is already disclosed as Rs.670 crore is about nine per cent lower than that of 126 MMRCA basic price. Have we not got a better deal for this country? There was an escalation cost and also the exchange rate variation which has to be taken into account. Will the escalation cost or exchange rate variations not work? The price of a basic aircraft cannot be compared with a battle ready aircraft, with weaponry, with electronic warfare equipment, with maintenance, with spares, and other associated costs. I now talk about the negotiations with the French side because the process is very important. A negotiating team was constituted to negotiate the terms and conditions for the procurement of 36 Rafale aircraft with the French Government. In all, 74 meetings were held with the French side between May 2015 and April

2016. On 21st July, 2016 all the seven members of the INT signed the report which was produced with better terms and conditions. During the discussion a lot of things are said and they are recorded. They are not hidden. They are not wiped off. There was a constant reference as to why there was no bank guarantee, no sovereign guarantee. I can cite at least two previous examples. No bank guarantee was provided or is being provided for any foreign military sales, contracts which are signed between the Government of India and the US Government. No bank guarantees are provided even in the Rosoboronexport from Russia. About the three aspects of price, process and the Indian offset partner, even the court found no reason for their intervention and dismissed all the writ petitions. On the issue of misinterpretation of paragraph 25, we have gone to the Court on our own asking for a correction. If we compare the UPA time Inter-Governmental Agreement with the present one, I want to put before you that the terms that we have got under the IGA are far better on every count- price, delivery, maintenance, industrial support, additional warranty, other than, of course, weapon package and advanced training, which I am not disclosing here. On the issue of C&AG raised by several hon. Members, I want to inform the House that the C&AG is conducting the performance audit of capital acquisition of air systems including the procurement of Medium Multi Role Combat Aircraft and the 36 Rafale. The complete draft audit report has been received in the Ministry of Defence in December 2018 and the response for the same is under preparation. Although, monitoring takes place in

PMO about how the works are going on but that cannot be construed as an interference. As regards the question as to why the Euro-fighter was not considered, I want to inform the House that the L2 Vendor had made an attempt to reduce his cost after having known the cost of the L1 Vendor, which is grossly inappropriate. A comparison with some other country's price is difficult and can be misleading. I have replied to all the questions raised by the Congress party and others. National security considerations will have to be kept in mind. There is no loss to the exchequer. On the contrary, we have got a far better deal. For four years, this Government has run without any corruption. Above all, I want to say that the Defence Ministry has run without *dalals* all the five years. An hon. Member has asked about the Augusta Westland agreement. I would like to inform him that the contract with the Augusta Westland International Limited (AWIL) was signed on 8th February, 2010 and not during Atal Bihari Vajpayee Ji's time. He was right in expressing a very good concern about the HAL. We are investing a lot in HAL. Under the Strategic Partnership Scheme through which whoever will be bidder will have to produce them in India. It could be HAL, it could be DRDO or anybody else. The offset contracts, under the Rafale Agreement are governed by the offset guidelines of the Defence Procurement Policy of 2013. That policy was not made by us. That policy was framed in the UPA. As per the offset guidelines, the Defence Acquisition Council may prescribe various offset obligations. Accordingly, an offset obligation of 50 per cent was prescribed for

Rafale and not 30 per cent. The Government does not go and put it as a part of the inter-Governmental agreement at all. Who they should go with, who they should not. They will decide it and not the Government. So far as discharging of the offset obligations by OEM and its tier-I vendors through Indian offset partners is concerned, there is no mention of any private Indian business house or houses in the IGA for offset contract.

The discussion was concluded.

THE COMPANIES (AMENDMENT) BILL, 2018

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE AND MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI P.P. CHAUDHARY) *moving the motion for consideration of the Bill, said:* The Government constituted a Committee in July 2018 under the chairmanship of the Secretary, Ministry of Corporate Affairs with a view to reviewing the existing framework of the Companies Act, 2013 and make certain recommendations with respect to offences and related matters. The Committee had a number of meetings. The Committee gave its recommendation on 27th August, 2018. This will reduce the prosecution before the special courts and provide for speedy disposal. These were the amendments which were of

urgent nature and Parliament was not in session. Therefore, the Ordinance was there. Now I request the hon. Members to kindly consider and pass this Bill.

SHRI TATHAGATA SATPATHY *initiating said:* We are focusing mostly on the 'haves' of this country. What I would like to know from the Government that when we have an active Parliament and when the Government knows that it is in majority, then what is the big hurry to bring Ordinances? I do not approve of political parties blaming each other colleagues. My idea is, why can we not bring about transparency. When you make it a Bill, is it because you have promulgated an Ordinance already benefitted somebody, therefore, you are justifying your act. If that be so, is it good for the country? Is it good for the taxpayer? These are facts that we need clarifications from the Government. NCLT raising the power from Rs. 20 to 50 lakh is all hogwash. Without telling us the reasons, without adding the costs, that the nation has to suffer because of this Ordinance the Government should not insist for passing this Bill.

SHRI BHEEMRAO B. PATIL: This Companies (Amendment) Bill, 2019 is related to penalties, and various other aspects. The National Company Law Tribunal is severely stressed due to the mounting number of pending cases. Increasing number of cases is not allowing them to carry out with their mandate. The Government intends to reduce burden by re-categorization of 16 compoundable offences as civil defaults. For repeated offenders, the penalty incurred is incremental. Previously, when a public company is converting itself

into a private company, the authority to approve this change rested with the NCLT. Now, the Government aims to transfer these powers to Central Government officials. It is our belief that when discretionary powers to Government authorities are increased, penalty for misuse of such power should be equally increased. We request the Government to make amendments to the Bill to reflect this position.

SHRI P.P. CHAUDHARY *replying said:* I would like to clarify that why the ordinance was there when we could have brought the Bill. All kinds of matters, like changing of the name of the company, changing of the financial year and such related matters were required to go before the NCLT. As a result, it created a huge number of cases and arrears with the NCLT, there are around 40,000 cases. Since the serious fraud cases were not being disposed of promptly, it was decided to constitute a committee under the chairmanship of the Secretary. The court was not in a position to dispose of those cases because of a large number of pendency of cases. So, with that view, to declog the special courts as well as NCLT, this Ordinance was immediately enacted. Keeping in view all these issues, it was essential to promulgate Ordinance. With these words, I request to pass the Bill.

The Bill, as amended, was passed.

**

**

**

**

SNEHLATA SHRIVASTAVA
Secretary General

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

© 2019 BY LOK SABHA SECRETARIAT

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

English and Hindi versions of Synopsis of Debates are also available at <http://loksabha.nic.in>.