

October 2007

Vol. 6 No. 6

Rs. 20

SOUTH ASIA POLITICS

- Crises in Governance
- Why Rama and Ramayana?
- Relevance of Gandhi
- Manipur Elections
- India-ASEAN Relations
- Secularisation of Political Culture

NO WORK-NO PAY FOR LEGISLATORS



No work-no pay for the legislators – A Welcome Move

Rajindar Sachar



A recent study by a civil society organization found that in the 13th Lok Sabha, time lost due to disruptions was 22.4 per cent while in the 14th Lok Sabha which commenced in June 2004, it went up to 26 per cent. Each minute of Parliament costs about Rs.26.035.

PRESS reports that Lok Sabha Speaker, wants to apply principle of “no work no pay” to those legislators who disrupt proceedings in the House has been universally welcomed. The legislators with cheek in their tongue term it as a abridgement of their Parliamentary privileges, but the masses find this self glorification laughable. The conduct of such legislators is a standing shame to the nation and calls for immediate action. A recent study by a civil society organization found that in the 13th Lok Sabha, time lost due to disruptions was 22.4 per cent while in the 14th Lok Sabha which commenced in June 2004, it went up to 26 per cent. Each minute of Parliament costs about Rs.26.035.

Under the Parliamentary rules, a legislator has to sign the attendance register when he comes in the morning. He is paid daily attendance honorarium of Rs.1000 per attendance irrespective of the fact that he may just attend for 5 minutes out of normal five hours daily sitting.

Dealing with delinquent individual legislator is manageable under the rule of procedure. The more serious problem is when gross disorderly conduct by large number of legislators makes the sittings of the legislatures impossible. In such a situation the Speaker perforce and against his inclination is forced to adjourn the House. The damage to

the dignity of the House and the nation is for every one to see. But the legislators, still draw their daily allowance suffering no monetary loss. Is the Speaker powerless to direct no payment to legislators in such a case without a specific provision in the Rules of Procedure, which the legislators are not willing to change. I submit no. Though there is no specific rule permitting the Speaker to direct no payment to members in case the House is adjourned because of disorderly conduct, the Speaker would have inherent power to so direct. In Mays Parliamentary practice it is noted that the Speaker of the House of Commons (U.K.) has power to suspend for conduct falling below the standard House was entitled to expect and in certain cases, the practice is including withholding the member salary for the period of suspension. Admittedly the power to suspend House in case of members misconduct vests in the Speaker. Parliament has not codified the privileges of Legislators and thus the precedents of Speaker of House of Commons would be equally available in India. The principle of no-work, no pay can not be doubted because of the law laid down by Supreme Court (1990). In that case, the Bank of India employees went on 4 hour strike but joined the duty for the rest of the day. But the bank deducted the salary of for the whole day.

Similarly, legislators who are paid daily allowance for attending the Session, at least for the good part of the day, but because of their own disorderly conduct thus forcing the Speaker to adjourn the House against his own violation can not in all fairness ask to be paid his daily allowance which would mean rewarding him for his misconduct. As Lord Denning in one of his judgements (1980), (no doubt dealing with the workmen but the principles would be applicable to legislators also) said: “I ask: is a man to be entitled to the wages for his work when he, with others, is doing his best to make it useless? Surely not. Wages are to be paid for services rendered, not for producing deliberate chaos. “The Supreme Court has accepted this interpretation of law and has held that “it is not only permissible for the employer to deduct wages for the hours or the days for which the employees are absent from duty but in cases such as the present, it is permissible to deduct wages for the whole day even if the absence is for a few hours.” The legislators can not complain that why everyone should suffer because of disorderly conduct of a few delinquents. But a sobering reflection will remind them that legislators have passed laws imposing collective fine in a locality because of a few unsocial elements when admittedly majority of

residents are law abiding. Courts have upheld such legislation the interest of general public good. Surely, legislators should not cavil at applying the same standard to themselves when they electorally claim that they are the true servants of the public.

A question can be asked that even if there is uncertainty about the law why at least the government party and certainly the Ministers who would be against the adjournment of the House, can not resort to the Gandhian method of self sacrifice especially when they are celebrating the centenary of Gandhian Satyagrah. If the government party or the Ministers were to announce that they will forego the daily allowance for the days that the House is suspended for disorderly conduct by opposition it would set a very high principled precedent and will shame the opposition into following either their example or to

so behave that whatever the provocation, the House would not be adjourned. I may in this connection note the precedent of Mr. Kuldip Nayar, the eminent journalist and a nominated Rajya Sabha member (Retired) who during his term had written to the Chairman that he will not be drawing his daily allowance when the House is adjourned because of disorderly conduct. This request of his was accepted and no allowance was paid to him for those days. Thus a voluntary renunciation as a sort of self repentance and as tribute to the memory of the Father of the Nation should at least be practiced by the Ministers and the government party which claims to be inheritors of the Gandhian values.

I have no doubt that in such circumstances, opposition too will also fall in line to avoid being called hypocrites, as Dr. Ram Manohar Lohia used to describe those politicians whose words did not

match their deeds.

There is one other alternative that I am suggesting, if the Speaker with his noble determination refuses to adjourn the House even if there is disorderly conduct and thus no work can be done yet automatically the government party will have to remain in the House. If the opposition in those circumstances chooses to walk out it would invite the ridicule and the anger of the electorate. This moral force will then shame the legislators both in government and the opposition to calm down. I know my suggestions looks unreal but what is happening in our legislatures is so embarrassing that it calls for different and innovative methodology.

Justice Sachar is former Chief Justice High Court of Delhi, New Delhi.