

LOK SABHA
#SYNOPSIS OF DEBATES
(Proceedings other than Questions & Answers)

Thursday, August 3, 2023 / Sravana 12, 1945 (Saka)

THE DIGITAL PERSONAL DATA PROTECTION BILL, 2023

THE MINISTER OF RAILWAYS; MINISTER OF COMMUNICATIONS AND MINISTER OF ELECTRONICS AND INFORMATION TECHNOLOGY (SHRI ASHWINI VAISHNAW) *moved* that leave be granted to introduce a Bill to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes and for matters connected therewith or incidental thereto.

SHRI ASADUDDIN OWAISI *opposing the motion for introduction of the Bill said:* I oppose this Bill on four points. It is a violation of the right to privacy. Secondly, it amends the RTI. It is a violation of freedom of speech on religion. Thirdly, it empowers the Government to access people's private data. Fourthly, it is anti-woman.

SHRI GAURAV GOGOI: It is a Bill which impinges on the fundamental rights as per the Puttaswamy judgement on the right to privacy. It should be sent to the Standing Committee.

PROF. SOUGATA RAY: I oppose the introduction of the Digital Personal Data Protection Bill, 2023 under Rule 72(1). This is very different from the original Bill which was sent to the Standing Committee. The Chairperson and the Minister have changed the Bill altogether.

SHRI MANISH TEWARI: I oppose the introduction of the Bill on three counts. First of all, The Bill which was considered by the Joint Parliament Committee came back to the House and was withdrawn by the Government. It was re-introduced. It cannot be introduced as a Finance Bill. Secondly, it is in complete contradiction to the fundamental right of privacy upheld by the Supreme Court in the Puttaswamy

judgement. Thirdly, The Bill will apply with full force to all Non-Governmental Organisations and the entire Government universe is going to be exempt from it. Therefore, I oppose this Bill.

SHRIMATI SUPRIYA SADANAND SULE: I oppose the Bill on two small points. First is the excessive centralisation of all the data. It is hurting the spirit of the federal structure of the Government of India. Secondly, even the right to information is diluted. Third, there is a penalty clause. From Rs.500 crore, it has been brought down to Rs.250 crore. Even a small NGO tomorrow can challenge it. There is no clarity on compensation. The right to privacy is completely evaded. There is no privacy.

SHRI N.K. PREMACHANDRAN: I strongly oppose the Digital Personal Data Protection Bill, 2023. It is totally violating the basic, fundamental human rights of the citizen of the country. Secondly, the Standing Committee on Communications and Information Technology has submitted a report on the floor of this House. So many recommendations are there. Without looking into the recommendation of the Standing Committee, coming up with a new Bill is not fair and proper. I strongly urge that those recommendations may be taken up.

SHRI ADHIR RANJAN CHOWDHURY: Through this Bill, the Government is going to trample upon the Right to Information Act and the right to privacy. The Bill by amending the Right to Information Act wants to introduce an era of corruption because new personal data like assets and liabilities, and educational qualifications of corrupt Government functionaries cannot be asked for under RTI. Secondly, the Bill does not provide for compensation to the individual whose personal data has been compromised or who has suffered a loss due to the theft of personal data. Thirdly, it violates the Fundamental Right to Privacy. It is better that the Government should send the Bill to the Standing Committee or Joint Committee or any other forum for having a threadbare discussion with regard to this very important Bill.

DR. SHASHI THAROOR: As the former Chairperson of the Standing Committee, we have repeatedly requested the hon. Minister to take the Committee into confidence. It is a matter of disappointment that the Committee has not been asked to study this Bill which has been repeatedly modified by the Government. Given the vast number of objections, I urge that the Bill be sent to the Standing Committee.

SHRI ASHWINI VAISHNAW *replying said:* No hon'ble Member has raised the question regarding legislative competence. I would like to clearly state my point before this House and you that this is a General Bill. There will be a detailed discussion on this whether it is related to the Puttaswamy judgement or related to compensation. The Government is ready to debate on every issue.

The Bill was introduced.

***MATTERS UNDER RULE 377**

- (1) **SHRI SUDHAKAR TUKARAM SHRANGARE** laid a statement regarding the need to set up FM Radio Stations in Latur, Maharashtra.
- (2) **SHRI RAVI KISHAN** laid a statement regarding stoppage of trains at different railway stations in Gorakhpur Parliamentary Constituency, Uttar Pradesh.
- (3) **SHRI SUNIL KUMAR SINGH** laid a statement regarding drought situation in Chatra Parliamentary Constituency, Jharkhand.
- (4) **DR. SANGHAMITRA MAURYA** laid a statement regarding the need to set up a Maurya Regiment in Army.
- (5) **DR. RAMAPATI RAM TRIPATHI** laid a statement regarding construction of underpass or over bridge on Railway level crossing in Deoria Parliamentary Constituency, Uttar Pradesh.
- (6) **SHRI TOPON KUMAR GOGOI** laid a statement regarding development of Archaeological sites in Sivasagar, Assam.
- (7) **SHRI SUBRAT PATHAK** laid a statement regarding increase in number of Therapy Sessions for children with autism and make provision for Care Giver in severe cases of autism.
- (8) **SHRI VIJAY KUMAR DUBEY** laid a statement regarding construction of Chhitauni – Tamkuhi railway line in Kushi Nagar Parliamentary Constituency.

* Laid on the Table as directed by the Chair

- (9) **SHRI CHUNNILAL SAHU** laid a statement regarding the need to extend the benefits of Government schemes to people living in areas registered in land records as bush-forests in Chhattisgarh.
- (10) **SHRI VISHNU DAYAL RAM** laid a statement regarding inclusion of Kasaudhan Caste of Jharkhand in the Central list of OBCs.
- (11) **SHRI KUNAR HEMBRAM** laid a statement regarding improvement of railway services in Kharagpur Division under South Eastern Railways.
- (12) **SHRI ARUN KUMAR SAGAR** laid a statement regarding the need to provide Escalators and Elevators at Shahjahanpur Railway station in Uttar Pradesh.
- (13) **DR. NISHIKANT DUBEY** laid a statement regarding review of projects for development of religious sites in Deoghar.
- (14) **SHRI NARANBHAI KACHHADIYA** laid a statement regarding the need to expedite works on NH-351.
- (15) **SHRI RAHUL KASWAN** laid a statement regarding alleged irregularities in implementation of Jal Jeevan Mission in Rajasthan.
- (16) **SHRI BHOLA SINGH** laid a statement regarding a policy of flexible working hours for women.
- (17) **SHRI KOMATI REDDY VENKAT REDDY** laid a statement regarding the need to waive the penalty for not linking Aadhar Number with PAN.
- (18) **SHRI V. K. SREEKANDAN** laid a statement regarding the need to restore deleted Job Cards under MGNREGS.
- (19) **SHRI K. SUDHAKARAN** laid a statement regarding development of park and associated area of Payyambalam into an open military museum in Kannur Parliamentary Constituency.
- (20) **SHRI S.R. PARTHIBAN** laid a statement regarding extension of Train Services to Salem.
- (21) **SHRI MARGANI BHARAT** laid a statement regarding Polavaram Irrigation Project.

- (22) **SHRI GAJANAN KIRTIKAR** laid a statement regarding the need to extend rail travel concessions to partially visually impaired persons.
- (23) **SHRI BHARTRUHARI MAHTAB** laid a statement regarding sharing of premium subsidy between the Centre and State under Pradhan Mantri Fasal Bima Yojana.
- (24) **SHRI RAMSHIROMANI VERMA** laid a statement regarding operationalisation of Shrawasti Airport, Uttar Pradesh.
- (25) **CHOUHARY MEHBOOB ALI KAISER** laid a statement regarding construction of bridges on rivers in Khagaria Parliamentary Constituency, Bihar.
- (26) **SHRI SYED IMTIAZ JALEEL** laid a statement regarding alleged under-utilization of funds under Pradhan Mantri Jan Vikas Karyakram (PMJVK).
- (27) **SHRI NABA KUMAR SARANIA** laid a statement regarding the need to regularize the services of temporary employees in Government sector and PSUs.

STATUTORY RESOLUTION

*Re: Disapproval of The Government of National Capital Territory of Delhi
(Amendment) Ordinance, 2023 (No. 1 of 2023)*

And

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) BILL, 2023

SHRI ADHIR RANJAN CHOWDHURY *moved* that this House disapproves of the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 (No. 1 of 2023) promulgated by the President on 19.5.2023.

THE MINISTER OF HOME AFFAIRS AND MINISTER OF COOPERATION (SHRI AMIT SHAH) *moving the motion for consideration of the Bill, said:* As far as competence is concerned, the administration of a Union territory is covered by the provisions contained in Part VIII of the Constitution. Its functioning has

been described in the Constitution from articles 239 to 242. Delhi is neither a full-fledged state, nor a union territory, nor a union territory with Assembly, as it is the capital territory. I would like to draw the attention of the House to Article 239AA(3)(b). Under this, the Parliament has full authority to make laws with respect to the Union Territory of Delhi or any part thereof on any matter relating thereto. After independence, the Pattabhi Sitaramaiah Committee recommended statehood for Delhi which was opposed by leaders like Nehru ji, Patel ji, Dr. Ambedkar ji that it would not be appropriate that full statehood should be given to Delhi. Nehru ji had even said that "since three-fourths of the property in New Delhi belongs to the Central Government, it would be logical to keep it under the Centre." He also gave the example of capital regions in the USA and Australia and said that a separate arrangement should be made for this. After that, provision for Legislative Assembly was made for Delhi by the Part C States Act, 1951. But in the year 1956, by removing the Legislative Assembly of Delhi, it was declared a Union Territory. In the year 1991, the Government of National Capital Territory of Delhi Act, 1991, to which I have brought amendments today, was passed in this House. Within the same Bill, through Article 239AA, this Parliament has been given full authority to make laws for any part of the capital region, for any purpose. A notification was issued using the same authority as the Parliament was not functioning at that time. We bring Bills and laws for the good of the country. It should be opposed or supported for the good of the country and Delhi. I appeal to the Members of the Opposition to think about Delhi and do what is considered right.

SHRI ADHIR RANJAN CHOWDHURY *initiating the discussion said:* Delhi is our heart. I would like to ask you why Delhi is being fiddled with again and again. Delhi is not the only state in India. If this kind of fiddling continues with Delhi, then you will gradually resort to the same trick in other states of India. Was it necessary to bring this Bill to stop scams? You have the ED, CBI, and so many other powers in your hands, why don't you use them? The promulgation of the Ordinance is a clear attempt to sideline democratic and judicial deliberations. What was the need to bring this Ordinance? You could have brought the Bill directly. What was such an emergency? You will have to apprise the House in this regard. We must worry about the federal structure, otherwise, India will be ruined. When the representatives are elected and the Legislative Assembly is formed, will they not be given the right to legislate? If you leave all the responsibility on the bureaucrats, then what is the need for us to get elected and come here? We have to maintain our accountability before the common people. This triple chain of command of ours is an important part of the federal structure of our country. You try to break it, that's why we have to stand here against you. Due to this Ordinance, more than 50 institutions working for the people of Delhi will be affected. Their control will shift from the people of Delhi to the Centre. These entities work in various sectors like water, transport and electricity supply of

Delhi. The biggest arbitrariness in this is that the budget for all these institutions will be passed by the Delhi Legislative Assembly, but the appointments will be made by the Union Government. I would say that do not bring such a Bill arbitrarily. Don't put all the responsibility on the bureaucrats, because in our country there are checks and balances. Please, don't break them.

SHRI RAMESH BIDHURI: This Bill has been brought to stop the mentality that hurts the pride and glory of the country. This bill has been brought to end the injustice that has been happening in Delhi for the last eight years. It was said that CCTV cameras will be installed, 20 colleges will be built along with 500 schools, Delhi will be given free Wi-Fi, and tap water will be provided to every house in Delhi. But none of the promises were fulfilled. Thousand new buses were to be brought in Delhi. The Delhi cabinet gave its approval to a private company and a scam of Rs 2,500 crore was committed. Their list of corruption is long – liquor scam, hawala scam. There was a scam in the construction of rooms. There has been no audit for 8 years in the Jal Board. The Jal Board is running into loss of lakhs and crores of rupees today. This is how Delhi is being governed. Their minister says that five crore people in Delhi sleep hungry. Whereas for the last three years, 80 crore people are being given free food by the Prime Minister. In 2018, the 'Ayushman Bharat Yojana' was stopped in Delhi. This is a government having negative thinking and doing politics of education.

SHRI DAYANIDHI MARAN: Regarding the Bill, I would like to say that the Supreme Court said in its judgment that: “hand over the control of services in Delhi, excluding police, public order and land to the elected Government.” This is a Government elected by the people not once but twice it has been elected. DMK stands against the proposed Government of National Capital Territory of Delhi (Amendment) Bill, 2023. The Supreme Court was very clear that the services should come under Delhi Government. But immediately after the Supreme Court gave a ruling, an ordinance was brought. We agree that Parliament is the utmost authority for making laws and that is the reason we are called lawmakers. But here the intentions of the Central Government are very clear. Its intention is to control the Delhi Government. One of your Members spoke that none of the promises made by the Aam Admi Party has been delivered. How can it be delivered? The Central Government never allows the officers to function.

SHRI KALYAN BANERJEE: On behalf of my Party, I am strongly opposing the present Bill, The Government of National Capital Territory of Delhi (Amendment) Bill, 2023. It is a targeted legislation and this targeted legislation has been made to whittle down the powers of the present State Government elected by the people of

Delhi. The Sixty-ninth Amendment of the Constitution has an important consequence for the special status of Delhi as the National Capital Territory. The concept of federalism, the structure of federalism is applicable to all the States. Similarly, this is applicable to Delhi. That is a Constitutional Bench judgement itself. Let me tell you the most crucial things of the Bill which are really violative. Now, under this Bill, the Chief Secretary will be appointed by the Central Government, a man of the Central Government. The Central Government is having control. Does it not destroy the concept of federalism itself? Is it not against the wishes of the people of Delhi? In a democracy, people's wish is final. People's mandate has to be accepted. The Central Government should hear the voice and wishes of the people. The Ministers are accountable to the Parliament and Legislatures. The third chain is that the Parliament and Legislatures are accountable to the electorates. This is a chain. This is a Parliamentary Democracy. It is not important that the Central Government is having the power. It is also not important that the State Government is having the power. The important thing is the will of the electorate. The will of the electorate has elected the State Government. The will of the electorate shall be implemented by all the Civil Servants. That is what the Government is destroying. In a democratic form of Government, the real power of administration must reside in the elected arm of the State and the elected Government needs to have control over its administration. These are the words of the Five Judges' judgment of the hon. Supreme Court. It is the responsibility of the Government of the NCTD to give expression to the will of the people of Delhi who have elected it. If the officers stop reporting to the ministers or do not abide by their directions, the entire principle of collective responsibility is affected. This Bill is destroying the federal character. Our next generations will question as to what their previous generations have done. Do you want to destroy the federal character of this country? Why the Governors are so active in non-BJP ruled States? Why is Governor acting in contravention of Articles 162 and 163 of the Constitution?

SHRI P.V. MIDHUN REDDY: This is a unique Bill as both the Central and the Delhi Governments are stakeholders in this Bill. The Legislative Assembly possesses the authority to make laws on matters within the State and Concurrent Lists except for those explicitly excluded by the Constitution. However, the Ordinance aims to restore certain powers to the Lieutenant Governor. The Ordinance also appears to be within the scope of the review of the Supreme Court's judgment. Article 239AA of the Constitution grants Parliament the authority to pass laws related to services, even though they fall under the exclusive competence of the States. I request the Government to take all the stakeholders into consideration. I hope that this Bill is not replicated in other States. The YSR Congress Party supports this Bill.

SHRI RAHUL RAMESH SHEWALE: On behalf of myself and my party Shiv Sena, I support the Government of National Capital Territory of Delhi (Amendment) Bill, 2023. Article 239AA of the Constitution confers the power to legislate on subjects in the State List and the Concurrent List except on the Delhi Legislative Assembly. The Parliament has been given the power in the Constitution to enact laws for the smooth functioning of the administration in Delhi in adverse situations. Such a situation had arisen in Delhi that it was necessary for the Union Government to bring an Ordinance to deal with corruption. In the last few years, there has been a flood of corruption cases in Delhi. The feeling of insecurity among the officers of the Delhi Government has increased. Delhi is not only a union territory but it is also the capital of the country. Therefore, in order to give relief to the people of Delhi, there was a need to stop and curb the corruption of the AAP government. Therefore, this Bill had to be brought in the Parliament by the Union Government in accordance with the Constitution.

SHRI RAJIV RANJAN SINGH 'LALAN': I rise to oppose the Government of National Capital Territory of Delhi (Amendment) Bill, 2023. The Hon'ble Supreme Court of this country has the authority to interpret the provisions of the Constitution in this country and the Constitution Bench of the Hon'ble Supreme Court in its judgment of 11th May explained it in detail. In the entire judgment, the Hon'ble Supreme Court has elaborately explained the matter of jurisdiction of Delhi. Democracy prospers only when it is feared of public shame which has been ignored completely. The Government wants to rule through the back door. The Ordinance brought by the Government is an attack on the federal structure. It is against democracy. The intention to rule the governments elected through the people in Delhi as well as in other parts of the country is getting reflected here. Therefore, our party and we oppose it.

SHRI PINAKI MISRA: We are supporting this Bill. Section 239AA of the Constitution gives the Parliament certain exclusive jurisdiction to enact laws with regard to Delhi. The LG has terminated the contract of 437 consultants working with various Departments of the Government of Delhi. I cannot understand why 437 consultants have to be appointed to run certain Departments here. Let me say this straight away that the Government of Delhi certainly has not covered itself in glory in this regard. A learned spokesperson yesterday said that this Bill borders on contempt of court. I see no contempt petition having been filed. The reason a contempt petition cannot be filed in the Supreme Court is that the Supreme Court itself gave the Government a lifeline by saying that it can bring a new law. Now the Parliament has brought that new law. One can take a position politically and say that he or she will not support it. But do not say that the Parliament does not have the power. Let the Supreme Court decide whether the Parliament has the power or not. Article 239AA gives Delhi

a peculiar and a special position in our polity. The Constitution permits the Government to bring this law with regard to Delhi. Now, the Supreme Court will decide whether the Services can be included among the other three provisions which were exclusion provisions in the Constitution. Therefore, I, on behalf of my party take the advised position that the Parliament has the power to enact this piece of legislation.

SHRIMATI MEENAKASHI LEKHI: The court has already said that matters related to law and order and land shall remain under the control of the Union Government. Now, the whole matter is stuck on the issue of Services. My friends from other parties said that only the Supreme Court has the right to interpret. The Supreme Court itself has ruled in its decision that Delhi is a Union Territory, it is not a state and the Union Government has certain rights in the affairs of Union Territories. Since Delhi is the capital city, the entire country and international dispensations keep an eye on it. In Delhi, hospitals like AIIMS, Safdarjung Hospital, Lady Hardinge Hospital and RML Hospital are run by the Union Government. Several lakh crore rupees are spent here by the Union Government and the Ministry of Urban Development. Keeping in mind the G-20 meetings to be held in Delhi, the Ministry of Road Transport has given Rs. 700 crore to the Delhi government to repair the roads. Then, how is it asked why the Union Government is interfering in Delhi's affairs? It would be better if those people do not talk about constitutional morality who have dismissed elected state governments 90 times using Section 356. It is purposeful legislation. The purpose of this Bill is to strike a balance between domestic needs and national needs because Delhi is a capital city where the balance needs to be kept between the local as well as national and international requirements. India is a quasi-federal structure, not a federal one. The Centre will always have the primacy. The power structure in Delhi has been unaccountable and irresponsible. And because of this, people in the Delhi Government are now pressurising the bureaucracy to get the wrong things done. Thus, there was a need to bring in an Ordinance. After bringing in an Ordinance, the Bill has been brought in. This Bill has been brought in to statutorily balance the interest of the nation with the interest of the Union Territory of Delhi. A particular body, namely, the National Capital Civil Services Authority has been established. This Authority will have three Members. The Chief Minister of Delhi will be the Presiding Officer of this Authority. The Home Secretary and the Chief Secretary of the Union Territory of Delhi will be the other two members. This Authority can deal with transfers and postings of officials and disciplinary matters; sole discretion on several matters including those related to the National Capital Civil Services and Summoning / Prorogation / Dissolution of Delhi Legislative Assembly. Being the capital of India, Delhi had been administered earlier by the President of India directly and a *sui generis* status was, however, conferred on Delhi whereby it retained the Union Territory nature with a Legislature. In view of its special status as a national capital, a scheme of

administration has to be formulated by a Parliamentary law to balance both, local and national democratic interests, which would reflect the aspirations of the people through joint and collective responsibility of the Government of India and the Government of National Capital Territory of Delhi as well. The Union Government has the right to decide about postings of officers of Group-A and DANICS and all related things. Apart from this, the issues regarding the Group 'B', 'C', 'D' and other related things will be overseen by the body deputed in this regard. Their appointments will be such that if there is any dispute, the matter will be decided by the Lieutenant Governor and his decision will be paramount.

DR. G. RANJITH REDDY: It is a very important and crucial Bill which impacts the federal structure of this country, and I feel that this is a leitmotif of the hon. Prime Minister of this country, the democratic values of the democracy, which is considered to be the largest in the world. I, on behalf of my party, strongly oppose the Bill lock, stock and barrel. The matter of discussion is what will happen to the Delhi bureaucracy, whom they should report to, what their responsibility is, and whose accountability this is. What has happened to the Government elected by the people? No one talks about that. Generally, in a Government what happens is that the bureaucrats are responsible to the Cabinet of Ministers and the Chief Ministers. The Cabinet of Ministers and the hon. The Chief Minister is accountable to the State Assembly and the State Assembly is answerable to the people. To whom the Delhi bureaucracy will report is very important. Will they have to report to the LG who is non-elected or report to the people-elected Government? This is what has to be decided today. Clause 239AA clearly says that as per the Constitution, the legislative assembly should have the power to make laws for the whole or part of the NCT which is inclusive of the State List and the Concurrent List. The Centre has overriding powers but how do these overriding powers have to be used? They have to be used rationally, ethically, democratically, and morally also. This is not only applicable to the Delhi Government but also to all the States where opposition parties are there. What has happened to Jammu and Kashmir? The State Government was reduced to UTs because of some other reason. But the elected Government was also demolished. We are not against the Ordinance. But no Ordinance should violate the fundamental, federal and democratic values of the Government. When the authority recommends everything and the LG takes a call on that, then what is the role of the Chief Minister there? There are 50 Authorities which are controlled by the Central Government. Then what is the elected Government meant for? All these authorities like Water, Transport, Tourism, Jal Board etc., are controlled by them. These Secretaries would want to report only to the LG and not to the concerned Minister. Even there is a verdict of the Supreme Court also which clearly states that the LG does not have any recommendation-making power. Hence, I

humbly request the hon. Minister to please re-consider and withdraw the Bill. We, on behalf of our Party, strongly oppose the Bill.

SHRIMATI SUPRIYA SADANAND SULE: I stand here to oppose the Bill brought by the hon. Home Minister. The Bill is about the 'elected' versus the 'selected'. How an elected Government is being demeaned, and is going to be run by the selected? The Bill is completely undemocratic and unconstitutional and it is completely against the spirit of cooperative federalism. I was slightly confused because these kinds of Committees are only seen in countries like China. I do not think India has this kind of control because I still believe there is democracy. I do not know whether it is a generation gap, but in a democracy, 'control' is not the right word. It is the 'dictatorship' which is the right word. I want to very humbly submit that the BJP in their manifesto during every Delhi election, always asked for full Statehood for Delhi. So, when you are talking about full Statehood, were you lying in the manifesto or are you lying to the people in the Parliament? Moreover, Jammu and Kashmir, which was a full State; you have broken it into three UTs. The hon. Home Minister said that he would ensure the election was held within a year. But the election was not held even after the lapse of four years. So, what is this double-faced policy making all the time of the BJP? This is my clear question to them and they must answer it. The hon. Home Minister said Article 239AA (7) empowers the Parliament to make a law to supplement the provisions, not to violate them. And he in this same reference said that this will have to go back to the Supreme Court which is three kilometres away. If it is going to go back and there is ambiguity in it, then why are we discussing this and wasting our time? Delhi Service Authority is similar to the China model. Coming to Clause 45D, there is a Committee of three people. The majority wins so far in a democracy unless it will change to a dictatorship. It is two Secretaries versus one Chief Minister. So, if the Chief Minister who is elected by the people of Delhi is vetoed by two Secretaries, then what will happen? Will the officers overturn the power of a Chief Minister? Can the LG overrule what the Chief Minister has decided? If he can overrule, then that leaves the Government powerless. They came to my constituency and said that NCP was a Naturally Corrupt Party in this country. They should take word back. It is the Nationalist Congress Party. It is not the Naturally Corrupt Party.

DR. S.T. HASAN: We used to think that we live in a democratic country, but gradually our Government is trying to make it a bureaucratic country. I would like to ask a question to my colleagues whether you are in favour of giving full statehood to Delhi or not. They reduced the democratic values and started diffusing the same and allowed the bureaucrats to dominate. The scams are being discussed. They have set a record for scams in these 9 years. The scam should be investigated and for this purpose, we have agencies. They should be brought to book, no matter who the

perpetrators of the scam are. If you do not want to accord full statehood to Delhi like this, then why did you conduct elections? If full statehood is to be given, then give full authority to the Chief Minister.

DR. SHASHI THAROOR: I am rising on behalf of my Party to strongly oppose the Government of National Capital Territory of Delhi (Amendment) Bill, 2023. This Bill is an assault on our democratic heritage and the spirit of federalism. During the introduction of the Bill itself, I had filed a Motion strongly opposing its very introduction in this House at a time when a Motion of No Confidence is pending for discussion. In fact, the Bhagwad Gita of Parliamentary Practice and Procedure Kaul and Shakdar page 772 explicitly states when the leave of the House to the Moving of a Motion of No Confidence has been granted, no Substantive Motion on Policy matters is to be brought before the House by the Government till the Motion of No Confidence is disposed of. Therefore, such an improper introduction of a substantive policy change while a No Confidence Motion is pending is against democratic morality to use a word much favoured by the Treasury Benches. Let me remind my colleagues in this House that it was almost four years exactly when this Government unceremoniously passed a Bill that sealed a fate of a State Government practically overnight in the rampant disregard for the basic constitutional relationship of the people of Jammu and Kashmir to the Republic of India without consulting them or their elected representatives, this Government showcases the same attitude that we are seeing today. This Bill removes services from the legislative competence of the Delhi Legislative Assembly. In other words, it amends the Constitution without being a Constitutional Amendment Bill. The Bill is essentially contradicting the principles of parliamentary democracy in the very year that the Prime Minister has held us as the mother of all democracies. It expands the powers of the Lieutenant Governor's opinion to have sole discretionary power on certain matters. If there is any difference of opinion even on matters beyond such matters between the LG and the CM, the LG will take precedence. The PM talks about cooperative federalism. But we are witnessing instead a coercive federalism. That seeks to centralise all power in the hands of the Central Government. This legislation is putting uniformity and Central control over the democratic interests of our country that the Prime Minister hails. We should, definitely, treat this House with more dignity than to let such a travesty of a Bill passed this House.

SHRI HASNAIN MASOODI: I rise against the Government of National Capital Territory of Delhi Amendment Bill, 2023. Actually, this is an attack on the Constitution and its basic spirit. I was surprised that it was mentioned here that India is not a federal country and federalism is not part of its Constitution. The aim of the Bill is that the entire power should come into the hands of the Union Government, so that

the rights of the elected government are completely abolished and to make them totally ineffective. On behalf of my party, I oppose this Bill and request that it should be withdrawn as it is against the Constitution.

DR. M.P. ABDUSSAMAD SAMADANI: I oppose the Government of National Capital Territory of Delhi (Amendment) Bill, 2023. It is a very critical legislation that is definitely going to upset and disrupt the delicate balance between the Centre and the States. It is against the very basic Constitutional dictum that India shall be a Union of States. We all know that it is against the cooperative federalism. Nobody can justify it. I can't understand why the Government is rushing for and pushing for this kind of negative legislation, which is against the norms of social, religious, linguistic, ethnic and political diversity of the country. It is an attempt to bolster the Centre's hold on the Capital's administration. An encroachment on the remit of the State Government, and an expanding the ambit of the Centre. This Bill under discussion is against Article 23AA, and also it is against the recommendations of the Sarkaria Commission, the Venkatachaliah Commission.

SHRI MANOJ TIWARI: In Delhi, not a single new college or school has been built in the last 10 years. The Chief Minister of Delhi had promised to provide houses to slum dwellers whereas it is being provided by the Prime Minister of the country. Till date, he has provided homes to 3,025 people. This Bill is meant to protect the rights of all including the slum dwellers of Delhi, the poor of Delhi, and the women of Delhi. Therefore, I request all of you to pass this Bill. With these words, I support this Bill.

SHRI VINAYAK BHAURAO RAUT: I am strongly opposing this Bill related to Delhi. It may be seen that the hon'ble Home Minister has clarified why he is bringing this Bill. At the same time, the hypocritical policy of the Union Government behind this Bill has been exposed. We are all sitting in the temple of democracy that protects Delhi's democracy. But unfortunately, I fear that the murder of democracy is being committed in this temple of democracy through this Bill. Unfortunately, this has taken place despite the orders of the Hon'ble Supreme Court. The Hon'ble Supreme Court on May 19 ordered that the democratically elected state government in Delhi should get full rights, despite this; it is condemnable to kill democracy by issuing such an ordinance and bring it into administrative action. This is not just a murder of democracy; it is an insult to the entire people of Delhi. The Shiv Sena (Uddhav Balasaheb Thackeray) party is strongly opposing this Bill through which democracy is being murdered and will continue to do so.

ADV. A.M. ARIFF: I vehemently oppose the National Capital Territory of Delhi (Amendment) Bill, 2023. It is very interesting to note that the hon. Supreme Court gave its judgement on 11th May upholding the power of the Delhi Government in

matters related to Delhi Services and within seven days, the Ordinance was promulgated to override the Supreme Court's judgement. What was the exigency to bring an Ordinance in such a hasty manner? It shows that the BJP Government cannot wait even for a single minute to act upon matters that it considers are affecting their supremacy. The Supreme Court recognised that the concept of federalism applies to Delhi despite it not being accorded the status of a State. The Bill envisages the setting up of a new statutory body, the National Capital Civil Services Authority, which consists of two bureaucrats – the Chief Secretary and Principal Secretary of Home – and the Chief Minister of Delhi. As decisions made by the authority will be based on the majority, the opinion of the Chief Minister, who is an elected representative, can be overruled by the bureaucrats who are supposed to work under him. The irony does not stop there. If a difference of opinion prevails, the final decision will be made by the Lieutenant Governor. So, the object of the Bill is nothing but to place the Lieutenant Governor of Delhi, as an autocratic ruler above the elected Government. I reiterate that this Bill is anti-democratic and anti-constitutional and against the federal principles. So, I request the Government to withdraw this Bill and uphold the sanctity of the Supreme Court's judgement.

SHRI ASADUDDIN OWAISI: I stand to oppose the Government of National Capital Territory of Delhi (Amendment) Bill, 2023. Supreme Court has repeatedly said that ordinance-making powers are not routine legislative powers and are supposed to be used solely in emergent situations which indicate that ordinance-making powers are not to be used on mere whims. What was this ordinance if not petty politics in the garb of law-making within eight days of Supreme Court judgement? The purpose was mala fide because it snatched a mandate of the electorate and gave it to an unelected civil servant. Section 45-I(4) of this Bill requires that before issuing any order, a Minister must submit his proposal to the Chief Secretary, Chief Minister, and the Lieutenant Governor. The list of matters that must be submitted to the Lieutenant Governor is expansive. This basically means that before doing anything at all, the Minister will have to seek the permission of the Union Government. Similarly, Section 45-J(3) places a duty on the Secretary to the Council of Ministers to bypass the CM and inform the LG. Similarly, Section 45-J(4) requires the Department Secretaries to determine that something is likely to cause controversy with the Central Government, Supreme Court, other State Governments, and other High Courts. Once they have determined it, they are required to report it to the LG. The CM is a showpiece. Under Section 45-J(5), the Chief Secretary is required to ignore the orders of the CM or Minister and report to the LG anything he determines is a violation of the Act. This Bill is horrible and absurd. It violates the principles of federalism. Why I say it is because the elected Government is being provided for, but the Administrative Officers under it are answerable to the Union Government. I conclude by saying that I oppose this

unconstitutional Bill, which violates federalism which is part of the basic structure of our Constitution.

SHRIMATI HARSIMRAT KAUR BADAL: While there is a lot of talk going on about more powers for the State of Delhi, I would like to tell this august House that this Bill is nothing new. I do not know what the din is about because all the things in this Bill have already been implemented in Punjab. A Leader of a small Union Territory is ruling the State of Punjab. He is asking for more powers over here, but he has suppressed every power of Punjab. Today they are talking about the federal structure, which imposed emergency and flouted all kinds of federal things. SGPC is our religious body . We Sikhs elect our SGPC to run our religious institutions. This inter-state body exists in Punjab, Haryana and Delhi. The Government is interfering in our religious rights. The Chief Minister has made direct interference and total violation by bringing legislation on our SGPC in his own legislative assembly. We want and demand that the Constitution of India should be shaped in such a way that it should be able to fulfil the hopes, aspirations and desires of different regional, linguistic, ethnic, religious and social groups of the country. Federalism is being discussed here today, it is a very good thing. You bring a Bill on true federalism. We will be among the first ones to support you.

***SHRI PARVESH SAHIB SINGH VERMA:**

***SHRI KARTI P. CHIDAMBARAM:**

***SHRI K. SUBBARAYAN:**

***SHRI N.K. PREMACHANDRAN:**

***SHRI HANUMAN BENIWAL:**

***SHRI SUSHIL KUMAR RINKU:**

SHRI AMIT SHAH *replying said:* One must be clear in mind that Delhi is not a State. It is a Union Territory and not even a UT per se. In fact, it is a National Capital Territory which has been created under a Special Article. Under Article 239 to Article 242 of the Constitution, we find mention of the procedure of the functioning of the Government of National Capital Territory of Delhi. Under Article 239 (AA) 3 (B) of the Constitution Parliament is very much within its authority and is fully empowered to legislate for the National Capital Territory or any part thereof or on any matters connected therewith or incidental thereto. As enshrined in the Constitution, States, Union Territories and National Capital Territories are separate entities altogether. Of course, the functioning of the State Government cannot be meddled with. But in the

present context, Parliament can interfere because of the fact that power to this effect has been conferred upon it under Article 239 AA 3 (B) right since some other Party was in power. I would simply like to enlighten the people of the country particularly those in Delhi as well as all the Opposition Parties of the fact that from 1993 till the year 2015 it had been under the same rules that Services had been placed at the disposal of the Union Government only. The Supreme Court gave an interpretation and through interpretation, it was maintained by the Court that if Services are to be placed at the disposal of the Union Government, legislation to this effect will have to be made and this is what we are doing by passing this Bill. I would only like to submit that the entity which is entrusted with the power to enact, the power to make rules obviously rests with the same. By implication, since the Union Government has been afforded the right to enact, the right to make Rules under the Act is also vested with the Government of India itself. This is a matter of basic understanding. Some of the Hon. Members have raised the matter with respect to the Cabinet Note. Yet again some false perception is being created. Even in the States Cabinet Notes are referred to the Cabinet with the signature of Cabinet Secretary. The approval on files is accorded by the Minister. A Cabinet Note is never referred to with the signature of the Minister. It is because of this that we had to frame Rules. Once again I would like to refer to the Historical account of Delhi. Fazal Ali Commission was constituted in the year 1953. Prior to that, Pattabhi Sitaramayya Committee was formed. Subsequently, it was in 1956 that the concept of Indian Territory came into place. Alongside, Delhi Municipal Corporation Act 1957, Municipal Corporation Act was brought into force and thereafter in the year 1987, a decision was taken to accord the status of a National Capital Territory after the constitution of Sarkaria Committee. Article 249aa bears a detailed description of it. It was taken through the 69th Constitutional Amendment. We are working as per the sentiment voiced by Ambedkar Jee. Ambedkar Jee had maintained that it should be under the Union Government. It clearly figured in the Balkrishnan Report which I reproduce with quote-unquote. The functioning and services of Delhi should be placed at the disposal of the Union Government.” Even at the time of making amendments to the constitution, the erstwhile Minister of Home Affairs quoted this in his statement and he said that Balakrishnan has stated this only after in-depth study and perusal of the System of functioning of the capitals across the world. And we are working in compliance with the same. The erstwhile Minister of Home Affairs was from the Congress Party. I would like to reiterate that all the Bills have their specific importance. Therefore, all the Hon. Members ought to be present in the House. There is a solitary Legislative Assembly in the Country i.e Assembly of the NCT of Delhi where there is no prorogation. All through the year 2020 just one session of the Delhi Legislative Assembly was summoned for the passage of the Budget which had 5 sittings for two days since the presentation and passing of the Budget is a compulsion. Even in the year 2021, only one Session was held and so has been the case

in the years 2022 and 2023, that too for the passing of the Budget for the Fiscal year concerned. In the year 2022, only six Cabinet meetings were called for. In the year 2023, only two Cabinet Meetings have been called for so far. Both of the meetings were convened for the purposes of Budget only. This is the problem facing the people of Delhi. Those in Government in the NCT of Delhi shy away from calling Cabinet Meetings. We want Cabinet Meetings to be held. Crores of rupees have been spent against which stricture was passed by the Court. The laying of the C&AG Report is a constitutional obligation but no C&AG Report has been laid on the Table of the House for the last two years. 13 Files relating to eminent institutions like RRTS, AIIMS, and IIT DELHI have been lying pending with them awaiting permission which the Government chose not to entertain. In the year 2016 an Act was made to launch 5 G technology which was accepted by 16 States of the Country including the one ruled by the DMK party but the Government of NCT of Delhi does not accept it. It is because it has nothing to do with the development of Delhi. The Ordinance promulgated which I have brought here for conversion into a Bill is fully constitutional and has been drafted exclusively aimed at the welfare of the people of Delhi. We have no political motive behind this move.

The Resolution was negatived.

The Bill was passed.

SUSPENSION OF MEMBER

HON'BLE SPEAKER: Shri Sushil Kumar Rinku is the newly elected Member. I have exhorted him to maintain the dignity of the House. But he did not uphold the dignity of the House and attempted to lower the dignity of the House. Hence I take the name of the hon. Member.

THEN THE MINISTER OF PARLIAMENTARY AFFAIRS: THE MINISTER OF COAL AND MINISTER OF MINES (SHRI PRALHAD JOSHI)
moved the following motion:

“That this House, having taken a serious note of the misconduct of Shri Sushil Kumar Rinku and in utter disregard to the House and the authority of the Chair, and having been named by Hon'ble Speaker, resolves that the above-mentioned Member be suspended from the service of the House for the remainder of the Session under Rule 374.”

The motion was adopted.

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UTPAL KUMAR SINGH

Secretary General

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

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LOK SABHA
SUPPLEMENT TO SYNOPSIS OF DEBATES
(Proceedings other than Question & Answers)

Thursday, August 3, 2023 / Sravana 12, 1945 (Saka)

STATUTORY RESOLUTION

*Re: Disapproval of The Government of National Capital Territory of Delhi
(Amendment) Ordinance, 2023 (No. 1 of 2023)*

And

**THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(AMENDMENT) BILL, 2023**

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SHRI PARVESH SAHIB SINGH VERMA: Delhi is a Union Territory, not a state. The Chief Minister of Delhi has been talking about State rights, including the right to transfer and posting of officers. Many parties in opposition have formed an alliance and are supporting him. Delhi is also the capital of India. The Central governments in most of the major countries have the right to run their capital cities. There is no service commission or service cadre in Delhi. The officers of Delhi serve in all 08 Union Territories. So, how can it be possible to give the right of transfer and posting of officers to the Chief Minister of Delhi? When the Covid pandemic hit the country, the Chief Minister of Delhi did not support the poor. He sent millions of people from Uttar Pradesh and Bihar to the Delhi border and asked them to go back to their home states. It was our government that set up hospitals in Delhi, provided vaccines to the public, and saved their lives. With the passing of the Bill, the alliance will collapse like a Pack of cards. The first assembly election in Delhi was held in 1993. No successive government had complained until the government led by Kejriwal came to power. It is a government of advertisements. The government is being run by spending Rs. 1300 crore on advertisements. Therefore, I request the House to support the Bill.

** Speeches made by other hon. Members have already been included in the Synopsis (Main).

SHRI KARTI P. CHIDAMBARAM: The Government has been refraining from intervening in Manipur, which has been burning for the last few months and hundreds of people have already lost their lives including women. Ethnic violence is taking place over there along with loot and arson. The Government can impose Articles 355 and 356 but it chooses not to do so. In Kashmir, the Government abrogated Article 370 and it is trying to do the same in Delhi also with its anti-federal and pro-colonial law. The Government has remained deaf and blind to the atrocities happening in Manipur. This Bill is totally anti-federal and completely colonial through which the Government reeks of colonialism with an unelected Lieutenant Governor with unbridled power. The Government wants unelected people and unelected representatives of theirs to rule over the population. This Bill goes against the sentiments expressed by the Hon. Supreme Court and against the federal spirit. This Bill will one day negate the Hon. Supreme Court of India. India is angry and it will give a befitting reply to the anti-federal and pro-colonial laws that this Government is bringing in.

***SHRI K. SUBBARAYAN:** This Bill is vindictive and unconstitutional. This Bill has been introduced with intent to destroy our democratic values. Therefore, on behalf of the Communist Party of India, I strongly oppose this Bill. This Bill is a testimony to the fact that BJP does not have the democratic value of tolerating those who defeated them in elections. This is aimed to dilute the powers of the elected representatives. I strongly condemn this. Therefore, I stress that this Bill should be withdrawn as it is undemocratic and unconstitutional.

SHRI N. K. PREMACHANDRAN: Article 123 is very clear and specific. Most of the Members have specifically stated in the House that only during extraordinary exceptional circumstances can an Ordinance be promulgated under Article 123 of the Constitution. The rule-making power is exclusively with the Central Government. Rule-making is a legislative function of the State. All the powers like transfers, postings, penalties, wages and salaries will be determined by the Union Government and the National Capital Services Authority is the ultimate body. There are many other means by which the Government of India can intervene. The basic democratic federal principles are being taken away by this legislation.

SHRI HANUMAN BENIWAL: Today, the National Capital Territory of Delhi Government (Amendment) Bill, 2023 is being discussed in the House. The Bill seeks to amend the Government of National Capital Territory of Delhi Act, 1991. With this,

* Original in Tamil.

the Central Government will be empowered to make rules in respect of the work of the National Capital Territory of Delhi, including the work, tenure and other service conditions of its officers and employees. As we all know that the constitutional bench of the Supreme Court said that the ordinance brought out by the Government is wrong. After that, by promulgating this ordinance on 19 May, the Central Government has not only violated the constitutional principles but also tried to usurp the rights of an elected Government. It has also tried to nullify the effect of the decision given by the Constitution Bench of the Supreme Court. I have one more request that the Government should pay attention to Manipur and Haryana as well. The matter of misuse of ED and CBI is being raised again and again. This is correct. The Congress party also misused ED and CBI and put Ministers of their own party in jail.

***SHRI SUSHIL KUMAR RINKU:** This Bill contravenes the judgement of Supreme Court regarding governance of Delhi. This Bill is beyond the purview of Parliament. This Bill usurps the powers of an elected and popular government. This Bill grants all powers to the bureaucrats of the Central Government. It is anti-democratic and will weaken democracy. This Bill destroys the federal structure of the country and is against the Constitution framed by Baba Saheb Shri Bhim Rao Ambedkar. So, this Bill should not be passed at all. I oppose this Bill tooth and nail. It destroys the federal structure of the country.

UTPAL KUMAR SINGH
Secretary General

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