

## **Sushma ji, How Can You Shut Down Parliament?**

■ **Dr. M.N. Buch**

The Constitution makes the Legislature one of the three pillars of the State, the other two being the Executive and the Judiciary. Chapter 2, Part V of the Constitution of India has a number of Articles which provide for the constitution of the Parliament of India and lays down the duties of Parliament and the manner in which these duties will be discharged. As compensation for performing their functions Parliament determines the emoluments, allowances, perquisites and other privileges of its Members. Every Member of Parliament is entitled to a monthly salary of Rs. 50,000 and a daily allowance of Rs. 2000 for each day of residence at a place where a session of a House of Parliament or sitting of a committee is held. This allowance is payable for three days prior to and three days after the session and two days prior to and two days after each sitting of a committee. A Member of Parliament is entitled to a constituency allowance of Rs. 45,000 per month, another Rs. 45,000 per month for office expenses, road mileage at Rs. 16 per kilometer for journey by road, journeys by rail and air transport facilities for the Member and the Member's family, rent free accommodation throughout the term of office, provided a flat or hostel accommodation is used, four million litres of free water supply per annum, 50,000 units of free electricity, furniture worth Rs. 60,000 for durable and Rs. 15,000 for nondurable items, free washing of sofa covers and curtains every three months, 1.5 lakh local telephone calls free of cost, complete medical coverage, a pension of Rs. 20,000 per month for having served for howsoever a short period in Parliament, which amount will be increased by 1,500 per month for every year in excess of five years of membership, family pension and a M.P. Local Area Development Fund entitlement of rupees five crores per annum.

These points are being made because the Members of Parliament are handsomely paid to perform their legislative functions. How important are these functions? No amount can be drawn from the Consolidated Fund of India without approval of grants by the House of the People under Article 113 of the Constitution and the passing of the Appropriation Bill under Article 114. The control of Parliament over the budget is absolute. India is a society governed by laws and, therefore, all legislation has to be approved by Parliament. Without a law the Executive cannot function. In addition, Parliament is required to call the Council of Ministers and, through them, the government, to account under Article 75(3) of the Constitution. This is done through questions, call attention motions, adjournment motions, discussions, debates and resolutions of Parliament and the process of approving a Bill when Parliament discusses it threadbare. What is more, through a motion of no confidence Parliament can not only call the government to account but it can also, provided there is a majority for the motion, unseat the government.

The one power that does not vest in Parliament or in individual Members of Parliament is the taking of executive decisions on behalf of government or performing executive functions in detail. The domain of the legislators is the Legislature and, therefore, the hankering after executive power of many Members of Parliament is not warranted by the provisions of the Constitution. It is unfortunate that interference in administration is indulged in by most Members of Parliament and this is done at the cost of their own legislative functions and it affects their legislative independence. No one is really interested in legislative business, which is

why the demand for most grants is guillotined and neither on legislation nor on resolutions is there a serious debate of the level that one witnessed when persons such as Shyama Prasad Mukherji held forth.

Now the trend is not to permit Parliament to function through pandemonium, physical obstruction of proceedings, boycott and other such undesirable tactics. Over the coal block allotment issue the Opposition, largely the BJP, has brought Parliament to a halt. The BJP is demanding that if Parliament is to function the Prime Minister must resign, all coal blocks allocation should be cancelled and a judicial inquiry instituted into the whole matter. As a result of what the BJP is doing the entire legislative process is interrupted and Parliament is not functioning. The distinguished Members of Parliament from the BJP would do well to read the Constitution of India. The Prime Minister is appointed by the President and he has to belong to a party or group which has a majority and, therefore, enjoys the confidence of the House. The Opposition cannot insist on the Prime Minister's resignation under threat of blackmail which takes the form of not permitting the Parliament to function. Everything the Opposition has to say should be on the floor of the House and certainly the people of this country cannot accept a situation where some Members of Parliament prevent Parliament from working.

Certain fundamental issues come to mind. The first is that if any citizen disrupts the functioning of Parliament, even by shouting slogans from the visitors gallery or circulating a pamphlet, he would be hauled up for breach of privilege of the House. The power of the House to punish a breach of privilege is unlimited and when Parliament punishes for such breach of privilege it converts itself into a court against whose ruling there is no appeal. If a Member of Parliament disrupts the House is it not a breach of privilege? Does she or he have more right than a citizen to disrupt the House? In India the citizen is supreme, not Parliament or its Members and if a citizen cannot disrupt the proceedings of a House, a Member of Parliament also cannot do it.

The second question is what can be done to ensure that Parliament functions. The Speaker must be strong enough to name a Member who misbehaves and ask the Member to withdraw or use the Marshal to physically remove him. For continuous disruption the Members can be suspended. My suggestion is that unruly elements be removed and let the rest of the Members proceed with the business of Parliament. Another step which must be taken is that if even on one day a Member disrupts the proceedings of the House he should lose all the salary, allowances and perquisites for a whole month. The people of India send Members to Parliament and pay them handsomely so that they can perform their constitutional duties. Sushma Swaraj, the Leader of the Opposition in the Lok Sabha is not performing her constitutional duties and is preventing others from doing so. She cannot be allowed to escape the consequences.

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