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## COLUMN ONE

### Deoras steps down as RSS chief

**NAGPUR, March 11.** — Professor Rajendra Singh today took over as the *Sarsanghachalak* (chief) of the Rashtriya Swayamsewak Sangh, which controls the Sangh Parivar, including the BJP and the banned Viswa Hindu Parishad, reports PTI.

The formal announcement of the stepping down of Mr M. Deoras, the ailing 79-year-old RSS chief, was made at a press conference this evening by the organization's general secretary, Mr H. V. Seshadri.

Mr Singh told reporters that there would be no change in the direction or priorities of the RSS and that collective decisions by "we six or seven seniors" would run the nationwide organization.

### Houses set ablaze

**IMPHAL, March 11.** — Suspected armed Kuki militants torched 45 houses in three Naga villages in the Chapikarong police station area in Manipur's Chandel district bordering Myanmar, yesterday, reports PTI.

### Tajikistan killing

**DUSHANBE, March 11.** — The Vice-Prime Minister of Tajikistan was shot and killed in his apartment early today by unidentified assassins, reports AP.

### Boycott withdrawn

**MMABATHO, March 11.** — The leader of the black homeland of Bophuthatswana, said he would not boycott South Africa's national elections today, after fighting and rioting threatened to topple his rule, reports AP.

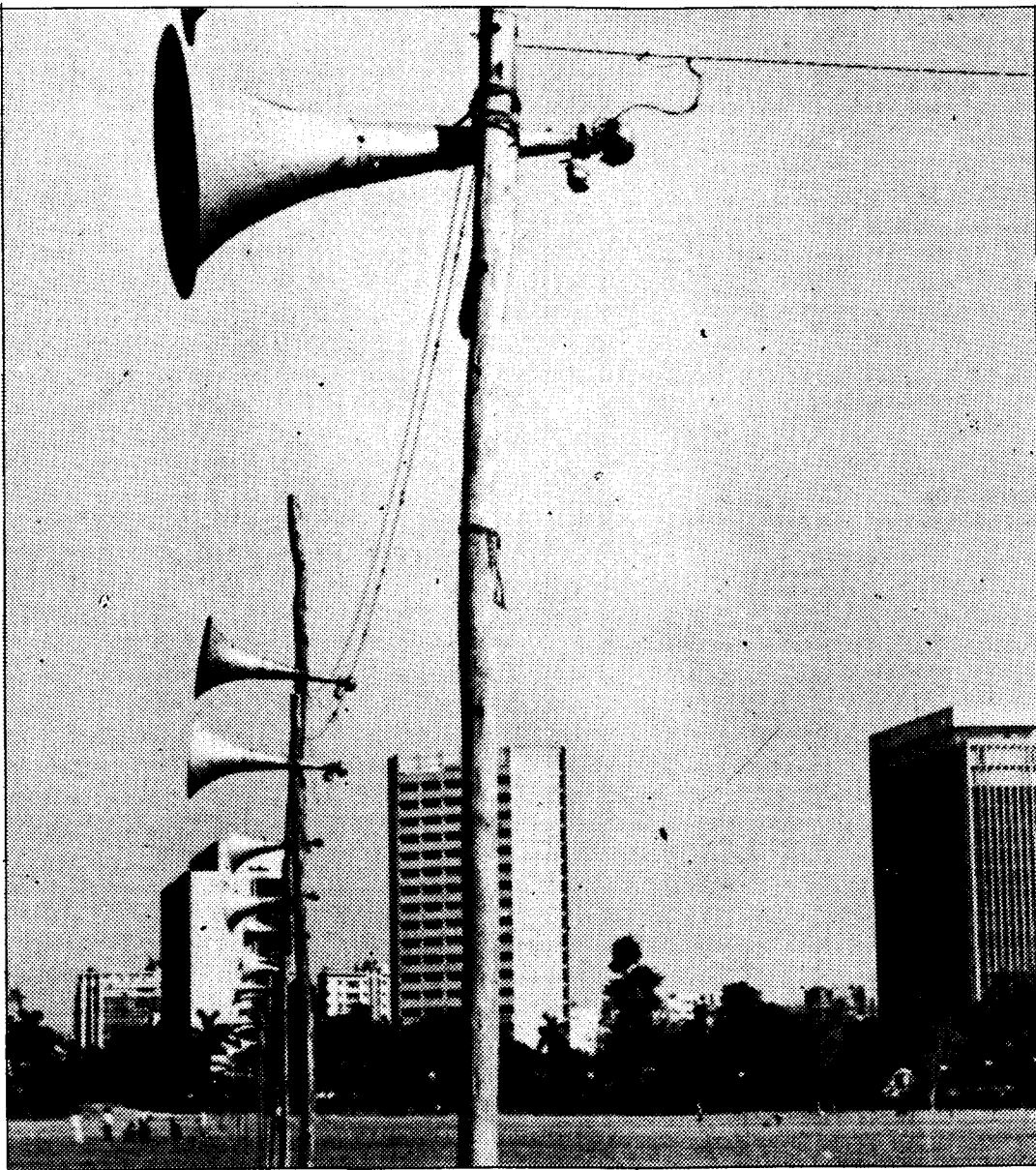
President Lucas Mangope issued his statement less than an hour after a shootout between homeland soldiers and white Right-wing extremists.

## THE WEATHER

Mainly clear sky. No significant change in day and night temperature.

**Yesterday's readings:**  
Maximum temperature up to 5-30 p.m. was 33.4°C (normal)  
Minimum temperature up to 8-30 a.m. was (20.3°C) 20.3°C (normal)  
Relative humidity: Maximum 83% minimum 25%  
Relative humidity at 8-30 a.m. 76% (4% above normal) and at 5-30 p.m. 36% (9% below normal)  
Rainfall: Nil

Sun sets today at 5-45 p.m.; rises tomorrow at 5-48 a.m.  
Moon rises today at 5-28 a.m.; sets at 5-51 p.m.  
New Moon ends today at 12-35 p.m.  
Hooghly River tides at Garden Reach:  
Mar.12: Low water 10-43 a.m. 1.26 mt.  
Mar.12: High water 1-59 p.m. 1.42 mt.  
Mar.12: Low water 10-52 p.m. 1.28 mt.  
Mar.13: High water 2-08 a.m. 4.99 mt.



Microphones at the Brigade Parade Ground herald yet another Left Front-called rally on Saturday, this time "against the Dunkel draft and steep hike in prices". — The Statesman.

## Little excitement on eve of Rao's visit to Britain

From RAVINDRA KUMAR

**NEW DELHI, March 11.** — With no outstanding political issues on the agenda, the visit of the Prime Minister to Britain is likely to be little more than an opportunity for exchange of pleasantries. Thus while major announcements — the stuff that gets diplomats all pumped up — are unlikely, there is little chance, too, of shock or discord. It is almost as if the Indian establishment is seeking a break after this week's tensions at Geneva, although IRA mortars at Heathrow have gummed things up a bit.

India will, of course, try and get Britain to say more than it has in the past on the Kashmir issue. It is unlikely though that the British will depart from their position, which is that India and Pakistan should resolve the issue bilaterally. Britain, on the other hand, is keen to push through an investment protection agreement that its industry wants.

London and Edinburgh in March are not exactly what the doctor would order — last night's weather bulletin reported single-digit temperatures — but sufficient champagne should flow to warm hearts when the report of the Indo-British Partnership Initiative is released on Monday to Mr P. V. Narasimha Rao and his British counterpart, Mr John Major.

It is tempting to draw a contrast between this and the last visit by an Indian Prime Minister to Britain, Rajiv Gandhi's nine years ago. Then, the agenda was crowded with political issues including South Africa and terrorism, and at least on

the former, Mrs Margaret Thatcher had proved as intransigent as Mr Gandhi was insistent. The profiles of the two persons at the helm now are, of course, quite different.

And while their respective detractors may find it difficult to charge either with being businesslike, business it is that is likely to take up most of the agenda, a continuation of the programme of action that gained momentum with Mr Major's visit to India in January 1993.

Since then, there have been several initiatives. The IBPI has provided a platform and the visit of a yachtload — a Royal yacht, no less — of British businessmen during the Indo-British week last November saw contracts worth more than £1 billion being signed.

Indeed, India has been one of the success stories of British commercial initiative in Asia this year. Certainly Malaysia hasn't, and the Indian side would do well to bear this in mind while negotiating in London. After having got the boot from Datuk Seri Mahathir Mohamad, the Malaysian Prime Minister, earlier this month, it is the British who ought to be looking to recoup.

Kashmiri and Khalistani separatist groups are likely to be out in force and at least some sections of the Asian community in Britain will be interested in what Mr Rao has to say about his Government's human rights record.

## Assembly dismissals only after approval by Parliament: SC

**NEW DELHI, March 11.** — In a landmark judgment that gives a new interpretation to the justiciability of Presidential powers under Article 356 of the Constitution, a nine-judge Constitution Bench, headed by Mr Justice S. R. Pandian, ruled that the President could dissolve a State Assembly only after the proclamation dismissing the Government was ratified by Parliament, report PTI and UNI.

Also, the court, by a majority, held that the President's power under Article 356 was subject to judicial review.

Holding as unconstitutional the dismissal of the Meghalaya (1991), Karnataka (1989), and Nagaland (1988) State Governments, the court today upheld the dismissal of the BJP Governments in Madhya Pradesh, Rajasthan and Himachal Pradesh following the demolition of the disputed structure at Ayodhya

in December 1992.

The dismissal of the Uttar Pradesh Government and imposition of President's rule there had not been challenged.

The apex court, however, declined to restore the State Governments in Meghalaya, Karnataka and Nagaland in view of the fact that elections had subsequently been held and new Governments formed there.

The court held that the bar provided under Article 74 of the Constitution could not prevent the court from calling in appropriate cases — for the records — in relation to the material on the basis of which the Presidential proclamation was made.

The other judges of the Bench were Mr Justice A. M. Ahmadi, Mr Justice Kuldip Singh, Mr Justice J. S. Verma, Mr Justice P. B. Sawant, Mr Justice K. Ramaswamy, Mr Justice S. C. Agarwal, Mr Justice Yogeshwar Day-

al and Mr Justice B. P. Jeewan Reddy. Mr Justice Dayal was not present in court.

The salient observations of the court were:

■ It was open for the court to call for the material and the basis on which the advice of the central Council of Ministers had been tendered for issuance of the proclamation by the President in appropriate cases.

■ It was open to the court to restore the status quo ante if in a given case, it came to the conclusion that the proclamation was invalid.

■ The power of the President under Article 356 was conditioned and not absolute. The President had to specify as to under which clause of Article 356 (1) he was exercising his powers.

■ The President had to exercise this power independently, unbiased and in the interest of

democracy. ■ Coming to power at the Centre by a political party with a sweeping majority was no valid reason to dismiss a State Government ruled by a party in the Opposition.

Earlier, during the hearing the Attorney-General of India, Mr M. K. Banerjee, and the Union of India had contended that the Presidential proclamation under Article 356 was not justiciable.

Counsel for the former BJP-ruled States and others, including Mr Ram Jethmalani, Mr Soli Sorabjee and Mr Shanti Bhushan, had submitted that a Presidential proclamation imposing Central rule in any State was subject to judicial review and the court was competent to restore the Assembly if the exercise of power was unconstitutional and arbitrary.

### Validity of TADA Act upheld

**NEW DELHI, March 11.** — The Supreme Court today declared as valid and constitutional the Terrorists and Disruptive Activities (Prevention) Act, 1987, reports UNI.

In a common judgment, the five-judge Constitution Bench also upheld the validity of the Terrorists Affected Areas (Special Court) Act, 1984. Headed by Mr Justice S. R. Pandian, the Bench included Mr Justice M. M. Punchhi, Mr Justice K. Ramaswamy, Mr Justice S. C. Agarwal and Mr Justice R. M. Sahai.

The main points of the ruling are:

■ Both Acts fall within the legislative competence of Parliament in view of Article 248 read with Entry 97 of List I and could fall within the ambit of Entry I of List I, namely Defence of India.

■ The court upheld Section 9 of the TADA Act suggesting that the judge or any additional judge appointed to the designated court should have sufficient tenure of service even at the initial stage of appointment.

■ Section 15 of the TADA Act is not violative of Article 14 or 21 of the Constitution. But the Centre should take note of certain suggested guidelines and incorporate these in the Act and rules through amendments.

■ Though it could not be said that High Courts have no power to entertain an application for bail under Article 226 and pass orders either way on cases under the TADA Act, the power should be exercised sparingly.

**WASHINGTON, March 11.** — The Clinton Administration is considering selling Pakistan the F-16 planes whose delivery the Pressler Amendment had stopped, reports PTI and UNI.

This was stated by the U.S. Assistant Secretary of State, Miss Robin Raphel, before the Ackerman sub-committee of the House of Representatives today.

Miss Raphel's admission came within 24 hours of a statement by Senator Larry Pressler saying that he apprehended that the Administration was thinking of a one-time waiver of the amendment to let the Pakistanis have 71 F-16s.

Denying that the Administration intended to request a waiver of the Pressler Amendment, Miss Raphel indicated, however, that the loophole in Pressler was that a down payment had been made for the planes.

The Bush Administration had allowed the sale of spares for past purchases by Pakistan

while ruling that whole pieces of equipment or planes were barred by Pressler, she said.

She said that if President Clinton agreed with that interpretation, he would have enlarged the loophole into a wide-open door through which anything could pass to Pakistan so long as it argued that orders had been placed before the Pressler interdiction had come into effect.

Stating that there was not sufficient evidence to declare Pakistan a terrorist State, she said that initially, Pakistan had supported insurgency in the Kashmir Valley. However, following U.S. pressure, it had made efforts to put a stop to it, she added.

"There is a problem of support by private organizations within Pakistan for various Kashmir insurgency groups. We have pressed the Pakistanis, and they have undertaken also, to close off that support".

She reiterated that U.S. policy

viewed Jammu and Kashmir as disputed territory and that included the parts held by Pakistan and India.

About a visit to the USA by the Indian Prime Minister, she said: "We have been looking for a date to bring the Prime Minister over here. We are looking for various opportunities to increase the exchange both ways".

A report from New Delhi adds: Praising the USA for what he called was its "balanced" stand at the UNHRC in Geneva, the Minister of State for External Affairs, Mr Salman Khursheed, said today that a Rao-Clinton summit might be held soon.

Meanwhile, Mr Dinesh Singh, Minister for External Affairs, said today that India would like to see Pakistan join an effort to create an economic community in Asia.

● Editorial: No More Ghettoes: page 8



## The DGCA's shameful abuse of power

By C. R. IRANI

**THE** Director-General of Civil Aviation appears to have allowed himself to be influenced by extraneous and irrelevant considerations in passing an order abruptly suspending all flights of Damania Airways with effect from March 10. The charges do not bear scrutiny.

Charge No 1: On a flight on December 19, the procedure for demonstrating the use of oxygen masks was completed as the aircraft was taking off instead of before takeoff. This is not a new experience for frequent travellers on Indian Airlines.

Charge No 2: On the same flight, some food trays were not collected before takeoff. Before takeoff, it can only be small trays for tea or glasses of water, so it must be a mistake for food trays not collected before landing.

The show-cause notice issued by the DGCA was dated February 18. Damania Airways was able to prove that it had not waited for the notice and submitted a copy of the explanation received from the chief airhostess as early as January 14, in which she confirmed that the cabin attendants involved were severely reprimanded. As we shall see presently being frank and honest did not help them.

**THE** most interesting charge is No 3. On a Calcutta/Bombay flight on January 3, a passenger who had had too much to drink "remained in the aircraft in a state of intoxication" and refused to disembark and this was a violation of Rule 24 of the Aircraft Rules, 1937.

The DGCA showed no concern for the rules when on March 7, 1984, Mr Ramrao Adik, then Deputy Chief Minister of Maharashtra, on an Air-India flight to

Frankfurt, misbehaved with two air-hostesses when in an inebriated state. Mr Adik paid the price by resigning on April 18, 1984, and no one has noticed that he is again a Minister, this time Minister of Finance.

Air-India did not have its operating licence withdrawn, it did not even get a show cause notice. Air-India was not responsible for the behaviour of Mr Adik. Neither was Damania Airways responsible for the behaviour of the passenger in question. Besides, while the behaviour was certainly unseemly, it is not shown how it endangered air safety. And what would be the position if the passenger drank his own liquor?

The order, dated March 9, holds Damania guilty as charged on count 2, because the chief airhostess

### CAVEAT

admits to having reprimanded the cabin staff. If Damania had been devious and not offered the explanation, it follows that it would have been better off. After these grave charges which, in the opinion of the DGCA, seriously imperil air safety and which are recited at length, the suspension of all flights are ordered for a month or until the airlines "institutionalize" a system to the satisfaction of the DGCA that such things will not recur, whichever is earlier. It is not understood how one institutionalizes a system to remove a solitary passenger from an aircraft.

**THE** airline have proved that it took action a month before the DGCA sent the notice. To misconstrue

the chief airhostess' letter to her employers as a confession of "breach of safety regulations" and a ground for suspending the airline is an abuse of power, with malice aforethought. No one, properly instructed in the rules of evidence, would come to such a conclusion.

Here is a tip for the DGCA. If his office is really concerned about air safety, he should get on board an Indian Airlines flight between Madras and Colombo any day of the week that the service operates. The flights are full of parties of regular commuters who carry sackfuls of sarees and other items easily saleable in Sri Lanka and return with sackfuls of spices and other produce which fetch good prices in India. The sacks are not checked-in baggage. They are carried on board, dragged down the aisle, and left there because they are too large to go under the seats and the overhead bins, which in any case are filled to overflowing with smaller packages.

If there is an emergency on board, passengers would be trapped in their seats as the aisle is blocked. He will also find that Air Lanka — on the same route — does not tolerate this gross violation of basic air safety regulations. If the DGCA does not have a passport, or the Sri Lankans will not give him a visa, then he can travel on busy domestic sectors of Indian Airlines where he will find many instances of passengers accommodated in the cockpit, or occupying the seats reserved for cabin staff.

The DGCA needs to be reminded that it is no defence that he has received orders from above. It is now the law settled by the Supreme Court that civil servants, including those who are not so civil, are accountable for the consequences of their actions.

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