

14.43 hrs.

**Title:** Consideration of the Essential Services (Maintenance) Ordinance Repeal Bill, 2001 (Bill passed).

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI CH. VIDYASAGAR RAO): On behalf of Shri L.K. Advani, I beg to move:

"That the Bill to repeal the Essential Services (Maintenance) Ordinance, 1941, be taken into consideration."

Sir, the hon. Members are aware that the Essential Services (Maintenance) Ordinance, 1941 was promulgated by the Governor-General of India on the 19<sup>th</sup> December, 1941 to make provisions for the maintenance of certain essential services. The said Ordinance was published in the Gazette of India, Extraordinary, dated the 10<sup>th</sup> December, 1941 and is of permanent nature as it was promulgated during the period when the time limit prescribed under section 72 of the Government of India Act, 1935, for operation of such Ordinances, that is, six months from the date of promulgation, had been omitted. It is continuing since 1941 because of that omission.

Subsequently, the Government of India enacted the Essential Services (Maintenance) Acts in the years 1968 and again in 1981. These Acts lapsed on the expiry of their life span. The Essential Services (Maintenance) Ordinance, 1941 was not repealed by these Acts and hence the Ordinance still continues to remain on the Statute Book.

The Commission on Review of Administrative Laws set up by the Government of India on 8<sup>th</sup> May, 1998 headed by Shri P.C. Jain, recommended the repeal of Central Laws/Ordinances including the Essential Services (Maintenance) Ordinance, 1941.

In this background, the Essential Services (Maintenance) Ordinance, 1941 is proposed to be repealed.

With these words, Sir, I commend the Essential Services (Maintenance) Ordinance Repeal Bill, 2001 as introduced to this august House for consideration and passage.

MR. CHAIRMAN: Motion moved:

"That the Bill to repeal the Essential Services (Maintenance) Ordinance, 1941, be taken into consideration."

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Respected Chairman, Sir, I support this Bill. At the same time, I would like to get some information from the Government because this Bill is repealing the Ordinance issued in 1941. At that time, the Government, which had to face the situation of the Second World War and also the Independence Movement headed by Mahatma Gandhi, promulgated the Ordinance. Mahatma Gandhi and the Congress Party were leading the Non-Cooperation Movement and also the Quit India Movement. At that time, the Britishers wanted to stop the Non-Cooperation Movement. They also wanted to threaten the people by way of this Ordinance.

For recollection, I am just reading the definition given by them at that time:

"Employment' includes employment of any nature, whether paid or unpaid."

It was even for unpaid people, that is, those who were employed. At that time, even if they wanted to stop work, they would have been punished for one year. In the same way, the Government at that time wanted to have only this purpose. According to the definition in section (iii), it is for public safety, maintenance of public order or efficient prosecution of war or for maintaining the supplies and services necessary for the life of the community. Their intention was only to protect their Government and continue their imperialistic attitude at the time of the War and even subsequent to the War. In the same way, they wanted to say that discontinuance of employment of such a person or by closing an establishment in which such a person is engaged, caused the discontinuance of his employment. Even an individual cannot continue his employment. That was the prohibition made at that time. In 1968, there was an agitation throughout India. The essential services, especially the Railways, and also the Posts and Telegraphs and other public sector undertakings had gone on strike. Therefore, they brought forward this Essential Services Maintenance Ordinance. It was made an Act in 1968 and continued for two years. In the same way, in 1980, the same thing happened. The Essential Services Maintenance Act of 1981 continued for nine years.

Now, I would like to suggest to the Government that a situation has arisen. The Government servants are agitated. The workers in the public sector undertakings are agitated. The Railway employees are agitated. There is a feeling that their grievances are not being properly redressed at a proper time. If they go on strike, then, the Government will again come forward with this type of Ordinance.

I would just like to bring forward the feelings of the employees. Now, the private sector is coming. The multinationals are coming. A person sitting in the Telephones Department - BSNL or VSNL - may be drawing a salary of Rs. 10,000. In case he goes to Airtel or Essar, he would get a salary of Rs. 20,000. A lot of perquisites are there. A lot of things are being given by them. Housing is given freely. Transport is given freely. So much is being given there. Naturally, the Government servants will also like to have them. When I am working in the same way, why should I not be paid in the same way as is being done in the case of employees in the private sector? Therefore, the Government should understand the situation. This type of Ordinance or Act need not come in future. The Government has to take a proper perspective and redress the grievances then and there.

Their problems could be solved by proper creation of the departments, proper conciliation, proper thinking and sitting with them across the table.

Then I hope these types of Acts and Ordinances need not come.

But I would like to suggest that it is high time to have a clear policy on the part of the Government to tell the employees that their grievances will be properly redressed. They need not resort to the last resort of strike and have immobilised the entire country. I can give an example of Tamil Nadu. In Deepawali days, the entire transport employees were on strike. People suffered a lot. The people are suffering, the employees are suffering, workers are suffering and the Government is suffering. I would like to know why. There should be a proper discussion with the people who are employed by us. They are our citizens. We should discuss with them and see that proper redressal are given for them, then there will not be any strike. There will not be any ordinance like this.

Therefore, this is the correct time to understand and the Government should come forward with a clear policy as to how they are going to solve the problems when it is faced in such a situation when these ordinance in 1968 or 1981 have come forward for this purpose.

Therefore, I would like to suggest that the Government should awake and see that the Government servants, especially those from the PSUs are taken care of. Public Sector Undertakings are suffering a lot. Their employees are not having a VRS. The Government is telling that they are giving VRS for NTC mills and they say that VRS is ready for them. But when we go and seek that, they say there are no funds, no money and that they cannot give it. In the same way, in every industrial sector, the same thing is happening.

Therefore, I feel that the Government should come forward with a clear idea and they should see in which way they are going to protect the interest of the employees and workers.

**SHRI CH. VIDYASAGAR RAO:** Sir, I am thankful to the hon. Member. He gave a number of suggestions and also suggested to take certain precautions while promulgating such ordinances so that there will not be any lapse of ordinance.

He was kind enough to highlight the problems of various employees. All the suggestions made by the hon. Member will be taken into consideration and at an appropriate time, we will use all the suggestions given by the hon. Member.

So far as this Bill is concerned, there is a limited scope. At the time of promulgation of ordinance in 1941, the time limit which was prescribed under Section 72 of the Government of India Act of 1938, it was omitted. Just because of that omission it continued upto that, otherwise this would have been lapsed. Though the other ordinances were lapsed, this could not be...*(Interruptions)*

**DR. NITISH SENGUPTA (CONTD) :** What are the implications?

**SHRI CH. VIDYASAGAR RAO:** There is no implication.

**MR. CHAIRMAN :** Let him reply. You can ask clarifications after the reply.

**DR. NITISH SENGUPTA :** How can he allow it to continue? It would have lapsed automatically.

**SHRI CH. VIDYASAGAR RAO:** For six months it was not there and it was omitted at that point of time. It was not done by this Government, the provision was omitted in the year 1941 and because of that it is continuing happening. Like that there are a number of enactments. Shri P.C. Jain has recommended and amongst other recommendations, he made this recommendation. It deserves to be removed from the Statute Book, therefore, I would request the hon. Members to pass this Bill.

MR. CHAIRMAN: The question is:

"That the Bill to repeal the Essential Services (Maintenance) Ordinance, 1941, be taken into consideration."

*The motion was adopted.*

MR. CHAIRMAN: The House shall now take up clause by clause consideration of the Bill.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1, The Enacting Formula and The Long Title were added to the Bill.

SHRI CH. VIDYASAGAR RAO: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

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