

**Title:** Discussion on the Geographical Indications of Goods (Registration and Protection) Bill, 1999 (Bill Passed).

1816 hours

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI MURASOLI MARAN): Sir, I beg to move :

"That the Bill to provide for the registration and better protection of geographical indications relating to goods, as passed by Rajya Sabha, be taken into consideration."

Sir, Geographical Indications refer to indication which define goods as originating in the territory of a country or a region or locality in that territory and where a given quality, reputation or other characteristics of the goods is essentially attributable to its geographical origin. Some well-known examples of geographical indications include Darjeeling Tea, Malabar Pepper, Alleppey Green Cardamom, Shambalpuri saree and Nimmapara Chenna and Baha rasgulla. ...(Interruptions) All these things are there. Therefore, we require a codified law. Unless we protect our own geographical indications in our country, we cannot get the same protection outside the country.

Sir, this is a very important legislation. In the national interest, I request the hon. Members to give their unanimous support to protect our national industries, our handicrafts, our national wealth.

MR. CHAIRMAN : Motion moved :

"That the Bill to provide for the registration and better protection of geographical indications relating to goods, as passed by Rajya Sabha, be taken into consideration."

"> SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, this Bill also is on the same lines of the Bill that has already been passed. The principles involved in the Trade Marks Bill and the Geographical Indications of Goods (Registration and Protection) Bill are more or less the same. Now, I have to oppose the Bill on certain conditions. One is that some provisions of this will create an area of litigation. Now take the infringement provision. If there is any infringement, the matter shall be taken to a district court and not below the jurisdiction of a district court. The position will be that there will be no end of the matter. Even now the district judges are not in a position to do their normal work. The cases are pending before the district judges in thousands. So, the decision under the provisions of this particular Bill by the district judge is not possible, within a generation, if I may put it. That is one thing. We will have to find out a method by which a speedy disposal of disputes with regard to infringement will have to be provided. I request the hon. Minister to bring in a legislation or come with an amendment in future at least to make things easier and the decisions made easier. Quick disposal is the most important thing in deciding cases. If we refer all these matters to the district court, it will consume a lot of time. That is one aspect.

"> With regard to Section 39, it is a penal Section. It says :

"> "Any person who, -

"> (a) falsifies any geographical indication; or

"> (b) falsely applies to goods any geographical indication; or

"> (c) makes, disposes of, or has in his possession, any die, block, machine ...."

"> When any person is found to have committed an offence, the provision is the same as provided in the Bill that we have passed just now.

"> Here also, there is a difficulty. We find that a certificate from the Registrar is required. The same provision is here which means that there will be delay. There is only one such Registrar. We will have to obtain a certificate for search, for entry into the premises and for investigation from him which means delaying the proceedings. There will be no end of the matter. That will help people with money and not the poor man who is already in possession of a geographical indication. He would be put to difficulties. So, I would suggest to find out a method by which the procedure is made quicker and easier.

"> When we go through clauses 44 and 45, we find that imprisonment for a term which may extend to two years or with fine is provided. Now, the matter will have to be decided either by a Metropolitan Magistrate or a first-class Judicial Magistrate, and the person who is to institute the prosecution proceedings is the Dy.S.P. He has other jobs also. As we know, three or four Dy.S.P.s may be available in a district. Whenever there is any case coming up for discussion, the Dy.S.P. may find it very difficult to proceed against him and at the same time, he has to obtain a certificate from the Registrar, which means delay. So, our attempt for a speedy disposal of such cases will meet with failure or difficulties in future.

"> Then, clauses 46, 47 and 48 require changes. Otherwise, the procedure or the purpose for which this Bill is passed will be difficult to attain. So, I request the hon. Minister to bring in a legislation so that the procedure may be made easier.

"> In the instant case, I have to dwell upon the Ayurvedic preparations of Kerala. We prepare some very famous medicines. We have a soap, Chandrika soap which is produced in Kerala and it may require a geographical indication.

"> SHRI MURASOLI MARAN : Chandrika soap is not of Kerala.

"> SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): The name Chandrika itself is from Kerala. You will have to understand.

">SHRI MURASOLI MARAN : Radhakrishnan is not of Kerala. We have another Radhakrishnan here.

">SHRI VARKALA RADHAKRISHNAN : So, I would suggest that the provisions, relating to taking cognizance, of clause 50 will have to be amended to make it easier. ....(Interruptions) These are the main aspects which I would like to dwell upon when I take into consideration this Bill.

"> With these words, I conclude.

"> SHRI P.H. PANDIYAN (TIRUNELVELI): Hon. Chairman Sir, I support Chapter I and II of the Bill. It is necessary for protection of the manufactured goods, especially it is indicated as `agricultural goods, natural goods, manufactured goods originating or manufacturing in India.'"

"> I do not agree to clause 51 relating to cost of defence or prosecution. It says that in any prosecution under this Act, the court may order such costs to be paid by the accused to the complainant, or by the complainant to the accused as the court deemed reasonable having regard to all the circumstances of the case and the conduct of the parties. It is quite unknown to law. It is an intimidatory provision. Secondly, the complainant has to rush to a court or to give a complaint.

"> Section 9 refers to:

"> "A geographical indication--

"> (a) the use of which would be likely to deceive or cause confusion..."

"> If you take the Samsonite briefcase, it is sold in Singapore as well as in Delhi. This briefcase originates from USA. People are guided by the name `Samsonite'", and they know that it originates from USA. Similar is the case with Rolex and Omega watches, though the duplicate watches are made in Hong Kong. So, the provision to recognise the place of origination of manufacture and its registration is a welcome measure. In Tirupur, the knitting industries are manufacturing banians, T-shirts. They are being exported, but the place of manufacture is not mentioned in the foreign countries. If it is stated that it has been manufactured in, say Tamil Nadu, India, naturally, the goods will carry the name and fame of our State and the nation. As the Minister mentioned, similar is the case with rosgullas, Tirunelveli halwa, Muscat halwa, Kadambur boli and Kozhikode halwa. They have their origin here. So far, they have not been accorded any legal recognition. Therefore, this provision in the First and Second Chapters is a welcome measure. Naturally, it will boost the production, it will boost the recognition of manufacturers, and they will manufacture to the satisfaction of foreign companies.

"> So far as textile industry is concerned, we are not lower in any way. We have spinning mills, we are producing so many dressing materials, which are being exported to other countries. As you know, in Tamil Nadu, we produce Kancheevaram sarees. In that way, the place of origin, if it is stamped and protected, that is, if it is geographically indicated, then the place of manufacture will be recognised by the whole world.

"> A few doubts were raised about Section 32 which says:

"> "No court or other authority shall have or, be entitled to, exercise any jurisdiction, powers or authority ..."

"> As the Minister said, it is very usual. In all the States"" Acts, they will say that `no court shall have any jurisdiction'". But the court""s jurisdiction cannot be ousted because the judiciary is independent. They will exercise their powers under Article 226, that is, writ jurisdiction.

"> Section 31 says:

"> "APPEALS TO THE APPELLATE BOARD:

"> (1) Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder, may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

"> (2) No appeal shall be admitted if it is preferred after the expiry of the period specified under sub-section (1):"

"> Here, the Registrar is entrusted with triple duties, that is, under Section 3, he is the Controller-General of Patents, Designs and Trade Marks; and he is also the Registrar of Geographical Indications. He is exercising the powers both as Controller-General of Patents, Designs and Trade Marks, and also as the Registrar of the Geographical Indications. Shri Pal, raised the same issue while speaking on the previous Bill.

"> Normally, in the courts, we used to implead the Chief Secretary of a State, say Tamil Nadu. But the Chief Secretary will not respond to the summons. It will be the Under Secretary who will appear and file a counter; he will contest the case. So, I would like a clarification on this point. The legal position should be informed to the House. I support the First and the Second Chapters of the Bill.

"> Sir, there are a number of cottage industries and they may not like to indicate the place of its origin in case their products are confiscated or forfeited. That section should not apply to the cottage industries.

"> Sir, with these words, I support Part - I and II of the Bill and rest of it, legally, I oppose it.

"> SHRI BIKRAM KESHARI DEO (KALAHANDI): Mr. Chairman, Sir, this is again a Bill which, being piloted by the hon. Minister, relates to the TRIPS Agreement. The provisions contained in this Bill of geographical indications are very vital for the protection of our

trade and protection of our indigenous products and for becoming a player in the global market.

"> Sir, India is a land of 45,000 plant species and about 81,000 animal species. These figures have been recorded when a survey to this effect was conducted. If the products that are produced in India are not protected today, then eventually – every product is recognised in the world as 'made in USA', 'made in Japan' or 'made in England' – the products which are made in India would be patented by other countries. I would like to give the example of turmeric. On a research conducted by the Jackson University it was observed that turmeric had the ability to heal wounds. They patented this product. But healing wounds and treating injuries – both internal and external – with the help of turmeric has been an age-old practice in Indian traditions. So, this was nothing new that they did. But it was just that we did not have this law in place and so they robbed us off our knowledge and utilised it and marketed it in the world.

"> Sir, this Bill envisages geographical indication of places basically which is used to identify goods or products as originating from a specific region or locality. I would like to cite here a very well-known instance of Champagne and Scotch whisky. Champagne is made from Chaton grapes. The name champagne relates to the Champagne district in France and chaton grapes are grown only in that district. But you cannot call champagne anywhere else.

"> Sir, similarly, there are a lot of products like this. Take the case of Chayawanprash. It is of Indian origin and it has ayurvedic properties. The other countries wanted to steal it from us. We are protecting these products by bringing this legislation.

"> Sir, earlier, the Intellectual Property Rights of these products were being protected and regulated in accordance with the provisions contained in the Patents Act, 1970; the Trade and Merchandise Mark Act, 1958; the Design Act, 1911 and the Copyright Act, 1957. But today I am very happy to state that this particular legislation is being brought in during the regime of the BJP Government under the able leadership of our hon. Prime Minister, Shri Atal Bihari Vajpayee which would enable India to become a global player with their own products and face the challenges in the trade market. With this particular piece of legislation on geographical indications, our products could now be protected. I thank you for the opportunity given to me to speak on this Bill and hope that this Bill would find a smooth passage.

"> SHRI RUPCHAND PAL (HOOGLY): Sir, it seems to me that the hon. Minister is in a hurry. Through you I would like to remind the Government that very adverse comments have been made that the Members of Parliament are failing to apply their mind to important Bills and the Bills have been passed which are not to be passed. There is no stipulation, no compulsion and this is one area, as the previous one also. I am making this reference because the name of the Bill is "Geographical Indications of Goods (Registration and Protection) Bill, 1999.

"> May I ask the hon. Minister, really speaking in concrete terms, what are the geographical indications? Everything is kept in notification only and this Parliament is giving approval to the executive and they will incorporate whatever they like to incorporate and whatever they are pressurised to incorporate, they will not incorporate. But this is very important. Through you I just draw the attention of the Government and also of the hon. Minister to the fact that there is a debate going on in Europe. That is, the lawyers practising intellectual property related cases are debating about these things and they are having only one Agenda, that is, wines and spirits, and wines and spirits only, and wherever the Indian delegation tries to just bring into the discussion, be it basmati rice or Kulu shawl or Darjeeling tea or, whatever it may be, they have been objecting to it and strangely enough, many such things are there. But here there is a mention of only one thing, that is, wines and spirits. This is clause 84 (2) which reads as follows: -

"> "Identify wines or spirits in connection with goods by any citizen or domiciliary of such country were used at geographical indication in continuous manner."

"> Where is the reference in the Bill itself to Basmati? Is there any reference to Darjeeling tea in the Bill? Are you not very sure about the geographical indication of these things? You are very sure. Why are you not mentioning it? Because there is a pressure by Western countries and developed countries in many meetings. You can know it from your Ministry people also that there is a serious objection by the developed countries at important levels where our own men had tried to raise matters about basmati and Darjeeling tea, they refused to discuss this, but they discussed about wines and spirits, scotch whisky and champagne and all these things which we are incorporating in our Bill. For whom is this Bill? Is it for the foreigners, for the multinational companies or for our own country, our own products? It is a serious matter and this Government is trying to push through this Bill and the media has correctly commented that the Members are failing to apply their mind. This is a reflection on this institution itself. I request the Government through you not to push through such Bills in such a hurry where there is no compulsion on us to pass this Bill.

"> SHRI TRILOCHAN KANUNGO (JAGATSINGHPUR): Mr. Chairman, I fully support this Bill. I shall not repeat a word which I had said at the time of consideration of Trade Marks Bill. I shall confine myself to one or two things only.

"> This is an enactment, I have said, under the compulsion of Trade-related Intellectual Property Rights Agreement.

"> As per the agreement this has to be enacted before the 31st December, 1999. So, this is no doubt a compulsion. This is an enactment against international piracy by multinationals particularly bio-piracy and India is awakening at the end of this century, at the end of this millennium. There is a verse in Sanskrit. "

"> चोरे गते किमुसावधानम्."

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"> Right from Ghori, Lodi, Moghuls to Britishers, when they were taking away everything, of ours, we were sleeping. It was a sound slumber with loud snoring. We did not wake up. This is an enactment of awakening though it is a belated awakening. Let me emphasize it. It is better late than never.

"> Had we given proper emphasis, after Independence, to the survey, registration and recording of the flora and the fauna of this country and had we taken adequate measures to register and record the birds and animals and their properties and had we taken adequate care to develop our Ayurvedic medicines we would not have waited till the end of this century or this millennium to go in for such an enactment. This is an enactment against international piracy by multinationals. It is only when they were taking away basmati rice and patenting turmeric that we woke up to bring in this enactment. I fully commend it. I fully appreciate that it is a belated legislation. But it is better late than never.

"> The hon. Member Shri Rupchand Pal has referred to clause 84 (2). He perhaps wanted to mislead the House. I emphasize it. I now read clause 84 (2):

"> "Nothing contained in this Act or the Trade Marks Act, 1999 shall prevent a continued and similar use of geographical indication relating to a country or a country which is a member of a group of countries or union of countries or any Inter-Governmental organisations, as the case may be, notified under sub-section (1) identifying wines or spirits in connection with goods by any citizen or domiciliary of such country who has used that geographical indication in continuous manner with regard to such goods or any goods relating to such goods, as the case may be, in any part of the territory of that country ..."

We have not told anything about our goods. As Shri B.K. Deo said, we are not going to affect the patenting or the geographical indication of champagne. We are interested in our own goods.

In the Trade Marks Bill, I had wanted one commitment from the hon. Minister. He did not give that. I am repeating it again. The hon. Minister should commit here that within a time-frame of one or two years, all the flora and fauna of this country will be surveyed and recorded with their properties including healing properties and their geographical indications, that all the birds and animals of this country will be recorded and registered with their properties. He has to commit to this time-frame. Otherwise, the purpose of this enactment will be totally defeated. That is my view.

Of late, we have awakened from deep slumber. Better late than never. Let us awaken and give a good start.

"> THE MINISTER OF COMMERCE AND INDUSTRY (SHRI MURASOLI MARAN): I am beholden to the hon. Members for their full support to this Bill. As Shri Trilochen has rightly said, in Tamil we say Tri Lokam, we are awakening from a deep slumber. What happened to the Dhaka Muslims? What happened to the Indigo of West Bengal? They have all gone. Therefore, I would call this a historic legislation, which is trying to protect our products of geographical indications. The list is very long. It may apply to the Malabar tea, Darjeeling pepper, Alleppy Green Cardamom, Alfanso mangoes, Kolhapuri chappels, Pashmina shawls, Kanjivaram saris, Sambalpur saris, Tirunelveli halwa, I would say anything which has special characteristics should be protected.

"> Shri Deo has clearly stated that champagne is not a name of a drink but a name of a place. So, they are protecting. There is a famous case. In Spain they produced some kind of a wine and called it by the name Spanish Champagne. It was banned and they had to go to court. So, nobody can use the word Champagne. Likewise, nobody can use the word Scotch Whisky. It is not because it is cheaper. Here is a case in India also. The famous case of Mohan Meakin Breweries versus Scotch Whisky Association in Delhi High Court is a good example. They wanted to use the words "Highland" and "Highland Chief". It was not allowed by the Delhi High Court. The Scottish people were worried about the standards." They think that the word Scotch is associated with a quality product. I would appeal to the hon. Member from Tirunelveli. Kanjivaram saris mean, saris produced up to a standard in Kanjivaram alone should be called Kanjivaram saris. Halwa produced in Tirunelveli should have a particular quality. Similarly, Kolhapuri chappels mean that they conform to certain quality.

"> We should appeal to all concerned to come forward, form association, and define the standards. It is a historic piece of legislation. I once again appeal that this legislation may be passed unanimously.

">1849 hours (Mr. Speaker in the Chair)

">MR. SPEAKER: The question is:

"> "That the Bill to provide for the registration and better protection of geographical indications relating to goods as passed by Rajya Sabha, be taken into consideration."

">The motion was adopted.

">MR. SPEAKER: The House shall now take up the clause-by-clause consideration of the Bill.

"> The question is:

"> "That Clauses 2 to 87 stand part of the Bill."

">The motion was adopted.

">Clauses 2 to 87 were added to the Bill.

">Clause 1, the Enacting Formula and the Title were added to the Bill.

">MR. SPEAKER: The Minister may now move that the Bill be passed.

">SHRI MURASOLI MARAN: I beg to move:

"> "That the Bill be passed."

">MR. SPEAKER: The question is:

"> "That the Bill be passed.

"> The motion was adopted.

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