

14.30 hrs.

Title: Combined discussion on the Statutory Resolution regarding Disapproval of Securities and Exchange Board of India (Amendment) Ordinance and Securities and Exchange Board of India (Amendment) Bill .

MR. DEPUTY-SPEAKER: We shall now take up item nos. 17 and 18 together. The time allotted for these items is three hours.

Now, I request Shri Basu Deb Acharia to move his Statutory Resolution.

SHRI BASU DEB ACHARIA (BANKURA): Sir, I beg to move:

"That this House disapproves of the Securities and Exchange Board of India (Amendment) Ordinance, 2002 (No.6 of 2002) promulgated by the President on 29 October, 2002. "

THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): Sir, I beg to move \*\*:

"That the Bill further to amend the Securities and Exchange Board of India Act, 1992, be taken into consideration. "

SHRI BASU DEB ACHARIA : Sir, this is the third Ordinance which is being replaced. It was promulgated on 29<sup>th</sup> October, 2002. Parliament was summoned on 31st October, 2002. That is, only two days before summoning, this Ordinance was promulgated. It is also a fact that the Cabinet took decision to summon the House from 18<sup>th</sup> of November. When the Government knew that the House would meet from 18<sup>th</sup> of November, how was this Ordinance promulgated?

\*\* Moved with the Recommendation of the President.

A number of times, former Speakers have made observations in regard to the Government taking the route of Ordinance. The first Speaker of Lok Sabha, Shri Mavalankar observed on 25<sup>th</sup> November, 1950 as follows:

"The procedure of the promulgation of Ordinance is inherently undemocratic. Whether an Ordinance is justifiable or not, the issue of a large number of Ordinances has, psychologically, a bad effect. The people carry an impression that Government is carried on by Ordinances. The House carries a sense of being ignored, and the Central Secretariat perhaps gets into the habit of slackness, which necessitates Ordinances, and an impression is created that it is desired to commit the House to a particular legislation as the House has no alternative but to put its seal on matters that have been legislated upon by Ordinances."

"â€¦ Such a state of things is not conducive to the development of the best parliamentary traditions."

In reply to the above letter, which was written to the first Prime Minister of India, Pandit Nehru, Pandit Nehru wrote on the 13th December, 1950:

"I think, all of my colleagues will agree with you that the issue of Ordinances is normally not desirable and should be avoided except on special and urgent occasions. As to when such an occasion may or may not arise, it is a matter of judgement. Not only the Government of a State but Private Members of Parliament are continually urging that new legislation should be passed. Parliamentary procedure is sufficient to give the fullest opportunities for consideration and debate and to check errors and mistakes creeping in. That is obviously desirable. But all this involves considerable delay. The result is that important legislation is held up. Every Parliament in the world has to face this difficult problem and various proposals have been made to overcome it."

Then again, Shri Mavalankar wrote to the Prime Minister:

"The issue of an Ordinance is undemocratic and cannot be justified except in cases of extreme urgency or emergency. â€¦ We, as first Lok Sabha, carry a responsibility of laying down traditions. It is not a question of present personnel in the Government but a question of precedents; and if this Ordinance issuing is not limited by convention only to extreme and very urgent cases, the result may be that, in future, the Government goes on issuing Ordinances giving Lok Sabha no option but to rubber stamp the Ordinances.

I may invite your attention to one more aspect, namely the financial aspect involved in the amendment to the Indian Income Tax Act, 1922. It is not directly a taxation measure but it is intended for the purpose of collection of taxes indirectly. It affects the finances. It would be a wrong precedent to have an Ordinance for such a purpose."

In 1971, the then Speaker made an observation:

"If you think that there should be some distinction between financial and non-financial, tax and non-tax Ordinances, â€ All I can say is that I do not approve of Ordinances just at the time when the House is about to meet."

In 1980 also, the then Speaker reiterated:

"My distinguished predecessors have made observations in regard to these matters from time to time in the past. They did not approve of the issue of Ordinances on the eve of Parliament Session. I agree with them."

Sir, I am sure that you would also agree with the observations made by former hon. Speakers a number of times with regard to promulgation of Ordinances without any urgency. There was no urgency for this Ordinance. The Securities and Exchange Board of India Bill was passed in 1992. We have the experience of this Act during these ten years after the passing of that Bill and after the creation of a regulatory authority. It has not been able to control the capital market as well as protect the investors.

What the government is wanting to adopt today is a belated measure. I want to know why such a Bill was not brought earlier and why was the Act not amended? There were enough opportunities to amend the Act. There was no necessity for bringing an Ordinance just on the eve of Parliament Session.

Sir, we all know what is happening in the capital market and in the share market. That is why the Government wants to take certain measures and wants to give some teeth to SEBI. Now, under the existing Act, SEBI has no power to call for information or for record from any bank or authority or Board or Corporation established or constituted under any Central, State or provincial Act in respect of any transactions in securities which are under investigation or inquiry by the Board.

When did the Government come to know about this that SEBI has no power? Was it after the recent developments in the capital market that happened recently? Sir, we have seen a security scam and after that scam the Government woke up and then there was a Joint Parliamentary Committee. The Joint Parliamentary Committee made certain recommendations. The JPC also recommended to strengthen the regulatory authority, that is SEBI. When did the JPC submit its recommendations? It was long time back. I want to know whether the Government had implemented all the recommendations. If the Government had implemented all the recommendations of the JPC, then this was not needed. After ten years of the Act coming into force, having been passed in 1992, now the Government is thinking to strengthen this Act and now the Government is thinking to give more teeth to this Act. The Government could have done this much earlier and the Government should not have come to the House through the Ordinance route but by bringing an amending legislation.

Today, SEBI does not have any power to investigate or inquire, or on completion of such investigation or inquiry for taking follow-up measures. SEBI has no power now like, to suspend trading of any security in a recognised stock exchange, restrain persons from associating in security market, prohibit any person associated with security market to buy, sell or deal in securities or suspend any office-bearer of any stock exchange or any self-regulatory organisation from holding such position or impound or retain the proceeds of securities in respect of any transaction which is under investigation.

The SEBI has also no power to attach, after passing an order on an application made by approval, by Judicial Magistrate of First Class having jurisdiction, for a period of not exceeding one month.

So, the Government knew well that SEBI had no power. This is not a recent development. Then, why was the Act not strengthened? Why is it today that the Government has to promulgate an Ordinance and come to the House to replace the Ordinance saying that these measures are necessary to control the capital market? Why were all these measures not taken long before?

Sir, we have experienced how the investors, small depositors have suffered. We know about vanishing companies, the plantation companies. Shri Kirit Somaiya is here and he was also a Member in the Committee I am Chairman of. We had a meeting with Calcutta Stock Exchange and then, with Mumbai Stock Exchange. Small investors have their association which is being made by Shri Kirit Somaiya. Hundreds of small investors met us in Mumbai and we examined their cases. The Committee on Petition also recommended strengthening of SEBI. When? Only in the year 2000 we recommended so because we found that the present structure of SEBI, with the powers which are vested in SEBI, is not sufficient to protect the investors, protect the depositors. That is why, we also felt the need for it.

We are not against taking such measures. We are not against giving teeth to the existing Act to strengthen the regulatory authority, but what we feel is that this is a belated measure. Government should have taken these measures before our investors suffered a lot. Everyday, I am receiving letters and representations from the investors that they deposited

money and they are not getting back their money. I know about several widows, retired persons, mostly belonging to middle class, who have lost everything by investing in a vanishing company. SEBI has no role. SEBI has no power. That is why, Sir, these measures are necessary, but Government should have taken all these measures much earlier.

Another point is that we are creating a number of regulatory authorities, but who will monitor these regulatory authorities? Government also should have some role to oversee the functioning of the regulatory authorities. That is also urgently needed.

Sir, I referred to some of the observations of the former Speakers in regard to the promulgation of Ordinances, particularly on the eve of a Session. I feel, Sir, that there was no need for promulgation of Ordinances. Now, five Ordinances have been promulgated during this inter-Session period. What will happen? There is a Standing Committee on Finance. They will not be able to scrutinise this Bill. I know that when some of the important Bills are referred to Standing Committees, Standing Committees take a lot of time and in some cases, they take even one year. What prevented the Government from amending this legislation one year back? Then, it could have been referred to the Standing Committee. Now, you had to promulgate an Ordinance. You have stated in the Statement of Objects and Reasons as to why you had to promulgate an Ordinance or why have you chosen the Ordinance route. The Statement of Objects and Reasons says, "That in view of the above urgency of rapidly addressing these problems so as to obtain a vibrant capital market and to protect the interests of investors." I would like to know whether this is a recent development. When did you think that these problems should be addressed? Was it one month ago, two months ago or three months ago? When did you think that the investors' interest should be protected? Was it only three months back, two years back or three years back? When you came to power in 1999, you did not think that investors' interest should be protected. Shri Kirit Somaiya had not advised you then that investors' interest should be protected. Then, why did you promulgate an Ordinance? That is our objection.

In the Statement of Objects and Reasons, you have stated that in order to obtain a vibrant capital market and to protect the interests of investors, you have promulgated an Ordinance to amend the SEBI Act of 1992. There is no valid reason. The reason given by the Minister as to why he has chosen the path of the Ordinance, that is, to protect the investors' interest, is not a valid reason. We all want to protect the interests of the investors, not the big investors but the small investors. What I would like to know is whether this is a recent development. When did the Government realise that investors' interest is not being protected? Was it two months back, three months back or three years back? If the Government realised two years back that investors' interest was not being protected, then why did the Government not bring this Bill at that time? Why did the Government take so much time to bring this Bill? Why did it promulgate this Ordinance? I do not find any valid reason, that is why, I moved the Statutory Resolution disapproving the Ordinance.

I would request the Minister to explain and clarify them in the light of the observations made by the first Speaker of Lok Sabha as well as by other former Speakers that on the eve of the Session, Ordinances, even though urgent, should not be brought. I do not find any valid reason for bring the Ordinance.

Mr. Deputy-Speaker, Sir, I would also request you to give your ruling on this.

MR. DEPUTY-SPEAKER: What kind of ruling do you want me to give? You have cited them and now you may hear the reply of the hon. Minister.

SHRI JASWANT SINGH: Sir, I cannot repeat what I said earlier. I said, while seeking the permission to move the Securities and Exchange Board of India (SEBI) (Amendment) Bill, the amendments that we have moved are necessary for enhancing the powers of the capital market regulator.

It is intended to establish a Board to protect the interests of the investors in securities and to promote the development and also to regulate the securities market. There have been a series of shortcomings observed and in regard to those shortcomings, we found that the legal provisions that are available to the SEBI Act were somewhat limited, particularly in regard to inspection, investigation and enforcement. So, it was also felt necessary to strengthen the SEBI in terms of its organisational structure and institutional capacity.

That is why, this Bill proposes to expand the Board by raising the Board members, including the Chairman, from six to nine. At least three of these members will be whole timers.

The major thrust is on the empowerment of SEBI with respect to inspection, investigation and enforcement. Penalties existing under the present Act are mild and are not really serving as deterrents. Therefore, some additional penalties have been proposed to enhance the punishment for offences committed under the Act, rules or regulations. The Act is being amended to clarify and define offences such as insider trading, fraudulent and manipulative trade practices and market manipulation.

The Act provides for appeal to the Securities Appellate Tribunal against orders of the SEBI. The Tribunal, at present, consists of one member known as the Presiding Officer. It proposes to make the Tribunal a three-member body and to prescribe qualifications for the Presiding Officer and also the members. The Presiding Officer of the Appellate Tribunal should be a serving or a retired Judge of the Supreme Court or a serving or a retired Chief Justice of a High Court, to be appointed in consultation with the Chief Justice of India. An appeal against the orders of the Tribunal will lie before the Supreme Court but only on points of law.

It also proposes to empower the Central Government to grant immunity from any action under the Act, rules or

regulations to persons giving information to SEBI about offences or violations of the SEBI Act, rules or regulations. The Appellate Tribunal or courts will be empowered to compound offences either before or after institution of any prosecution.

Sir, with these words, I commend that the Bill be taken up for consideration.

MR. DEPUTY-SPEAKER: Motions moved:

"That this House disapproves of the Securities and Exchange Board of India (Amendment) Ordinance, 2002 (No. 6 of 2002) promulgated by the President on 29 October, 2002."

"That the Bill further to amend the Securities and Exchange Board of India Act, 1992, be taken into consideration."

SHRI A.C. JOS (TRICHUR): Mr. Deputy-Speaker, Sir, thank you very much for giving me this opportunity to speak on this Bill. Even at the cost of being repetitive I too have to say that resorting to this Ordinance route has to stop. I cannot say that the hon. Finance Minister did not understand what Shri Basudeb Acharya said, but he did not mention anything about resorting to this route of Ordinance. Shri Acharya, throughout his speech, dwelt on this issue of Ordinance. But the hon. Minister has not mentioned anything as to what necessitated the promulgation of this Ordinance. There are quite a few such Ordinances that have been issued, namely, the Securities and Exchange Board of India (Amendment) Bill, replacing an Ordinance; the Unit Trust of India (Transfer of Undertakings and Repeal) Bill replacing an Ordinance; Representation of People (Amendment) Bill, replacing an Ordinance; then there was the Delhi Metro Railway (Operation and Maintenance) Bill, replacing an Ordinance.

15.00 hrs.

Earlier, in this august House, we passed another Act, the Securitisation and Corporatisation Act, which also replaces the Ordinance. If this practice goes on like this, there would be no necessity to go through the exercise, which we are doing here because the Government can do anything.

After very prolonged discussion and deliberation, the system of Standing Committees has come into being in India. This system is followed only in Canada. We adopted it and it has been successfully functioning in our Parliament. Cutting across the political cleavages in the House, the Standing Committees discuss threadbare all the Bills and subjects entrusted to them. In 90 per cent of the cases, if I may say so, in 99 per cent of the cases, the subjects are studied in the Committees and unanimous recommendations are presented to the House, which is of immense help. I could say that this is neither Vajpayee Government nor NDA Government, but this is Ordinance Government and Ordinance Raj. Six Ordinances have come in this Session.

SHRIMATI MARGARET ALVA (CANARA): They were promulgated on the eve of the Session.

SHRI A.C. JOS : Yes, on the eve of the Session. Whatever one might say, we have repeatedly stated that the functions of this House become futile because of issuance of Ordinances like this. So, I join my hon. colleague Shri Basu Deb Acharya in requesting you to give a ruling on this matter. Otherwise, I am afraid, this Government will go on issuing Ordinances on every issue.

Coming to this Amendment Bill, my party and myself are in general agreement with it. We generally support it because in the last ten years, because of reduction of interest rates by the Reserve Bank, which is a very welcome step, millions of investors have come into this market. This is likely to continue in the future also. Small savings in the banks are declining because they are not remunerative and the investors now are not getting the rates of interest they used to get. So, more and more investors - small, medium and large - are coming into the market. They are all eagerly looking to the market.

However, our experience in the market for the past ten years has not been a very happy one. Our investment market is scam-ridden and fraud ridden. Every other day we read of some fraud or some scam taking place in our capital market. So, SEBI should have some teeth. It is only proper that this hon. House give empowerment to SEBI.

My friend, Shrimati Margaret Alva is the Chairman of the Committee on Empowerment of Women. Empowerment of SEBI is also an absolute necessity.

SHRIMATI MARGARET ALVA : They will empower SEBI but they would not empower women.

SHRI A.C. JOS : We will empower you, do not worry.

Even as per the statistics put out by SEBI, there are nearly 30.8 million investors in the market. You can imagine the situation. Whatever be the claim, millions and millions of investors are there in the market. Therefore, it is not only desirable but also essential to have a very stringent law by which the uncontrolled bulls can be controlled by SEBI. So, we do welcome this step.

When we go into the merits of the amendment, it is a very sorry state of affairs that the amendment itself is very abrupt and incomplete. I may invite the hon. Minister's attention to Section 2 of the Amendment Bill. It is Section 2 of the parent Act, which is now being sought to be amended. However, in Section 6, they are mentioning about investigating authority.

I am yet to find a law wherein definitions are not given. In this case, in the parent Act, there is no Investigating Authority. But here, we are introducing 'an Investigating Authority'. But what is the Investigating authority? What he means by the 'Investigating Authority' is not mentioned in this Amendment Bill.

As per the guidelines of the Legislative Section of the House, the definitions cannot be given by Amendments, otherwise I would have given Amendments on definitions. The hon. Minister may kindly look into it. There is no definition of other Investigating authorities. Nothing is mentioned about the Investigating Authority. By Section 6, the hon. Minister proposes to amend Section 11 of the parent Act. Here, he is adding 'the Investigating Authority;. It is also said that anybody can be the Investigating Authority.' It is a very dangerous proposal.

He should define 'Investigating Authority'. According to me, the Board of Directors can appoint anybody as an Investigating authority. It is said that anybody can be appointed as the Investigating Authority.

On page 4 of the Amendment Bill in line 11, it is said:

"It may, at any time by order in writing, direct any person ( hereafter in this section referred to as the Investigating Authority specified in the order to investigate the affairs of such intermediary..."

Sir, here such a huge amount is involved. But in the proposal, any person can be appointed as the Investigating Authority to investigate such a large number of companies with huge amounts involved. My submission is that the hon. Minister should define it as a Divisional Head of the SEBI. It may be any senior officer of the SEBI. They are having three more full-time directors. The Board can invariably direct one full-time director to be the Investigating Authority. Otherwise, this Section is liable to be misused and it will become a mockery of the amendments.

Sir, the hon. Minister mentioned about adding three more full-time directors in clause 3 of the Amending Bill which amends Section 4 of the Parent Act. There, he is amending section 3 Sub-Clause (d). It is said that 'five other members of whom at least three shall be the whole-time members.' But what is the qualifications for those members? The Central Government has given very wide powers to appoint anybody.

Of course, I know that in the parent Act, under Section 4, sub-section (5) they have said that 'the Chairman and the other Members referred to in clause (a) and (b), Sub-Section (1) shall be the persons of ability, integrity and standing.' Like that, so many things are written. But my point is that, at least, there should be some qualification prescribed. Otherwise, I do not want to say that any number of retired people are there. As per the choice of the Central Government, they can be appointed. It is also a very wide and unbridled power given to the Central Government, which, in my opinion, should not be done like this.

So, I am moving an amendment saying that on page 2, line 30, 'who should be the people having professional qualifications with 10 years experience in finance accounting and finance fields, such as, chartered accountants, company secretaries and MBA Finance because they are dealing with crores of rupees.

You are dealing with crores. So, we have to have some qualification otherwise anybody could be appointed as full-time director. It has been said that they should be the people of integrity. Integrity is not the sole requirement. They should have professional qualification also. So, my submission is that the Section should be amended in such a way that people with qualification and experience in the field are encouraged and appointed as full-time directors.

I do not know whether the Finance Ministry has really thought about the amendment of section 4, which amends section 11 prolifically. In (ia) it is said:

"calling for information and record from any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which is under investigation or inquiry by the Board; "

Nowadays records are being kept in a number of ways. They may be kept in computer, floppy or in any other electronic device. So, it should be specified. I have moved an amendment in this regard also which says:

"Page 2, line 19,-

*after "record", insert-*

"take certified copies of such records and information or print outs of data stored in floppy, CD

or any other form of electromagnetic data storage device." "

Even now, it is very difficult to decipher a floppy. But that is not mentioned in the law. It will lead to many other complications. So, my submission is that the amendment should be worded in this way. The same thing happens in the following section also.

"(2A) Without prejudice to the provisions contained in sub-section (2), the Board may take measures to undertake inspection of any book, or register, or other document or record " "

After 'record' I have moved an amendment to insert:

"or take certified copies of such records and information and print outs of data stored in floppy, C.D., tapes or any other form of electro-magnetic data storage device "

My request to the hon. Minister is to give a serious thought to this amendment. Because of paucity of time, I am not going into any other thing. At Page 5, a new Section has been incorporated which says:

"Where in the course of investigation, the investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record. "

My humble submission to the hon. House is, this is a cumbersome provision. If an officer goes to the first class magistrate, first of all an application has to be filed for search and seizure.

Secondly, it will be a protracted thing. It will take a month or two to get an order from the Magistrate. My submission is that this should not be added because in the Income Tax Act, we have got an akin provision. In that provision, the word 'Magistrate' is not there. The officer can go there. If the officer has reasonable belief that certain things are happening, he can enter into any office, seize any book, and search any locker. It is a pervading Section. It is Section 132 of the Income Tax Act. So my submission is that that has to be avoided. Instead of that, I am moving an amendment as follows:

"(a) enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept.

(b) to search that place or those places in the manner he thinks necessary.

(c) seize books, registers, other documents and record, it considers necessary for the purpose of the investigations.

Provided the investigating authority shall not seize books " "

After that, everything is there in the Act.

MR. DEPUTY-SPEAKER: Please conclude now. We have allotted three hours and you have taken 17 minutes.

SHRI A.C. JOS : Sir, my submission is that if that is accepted, then Sub-Section 9 can be deleted. If the senior officer is given permission to enter into office and the power of seizure etc., then sub-Section 9 can be deleted.

I fail to understand as to why under Section 24B the power of immunity has been given to the Central Government. I am sorry to say this. If correct explanation is given, I am prepared to accept it. Section 24B reads like this:

"The Central Government may, on recommendation by the Board, if the Central Government is satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of the alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder or also from the imposition of any

penalty under this Act with respect to the alleged violation: "

Section 24A gives compounding right for the SEBI authorities. I cannot understand the rationale behind it. I think it has got something beyond that because it is giving wholesome power to the Central Government to give immunity. So anybody can approach the Central Government with the recommendation or without the recommendation of the SEBI, and the Central Government, if it is satisfied, can exonerate anybody. That is a very dangerous thing. That shall not be accepted. There is no necessity for that. It is because Section 24A gives powers for compounding certain offences.

With these words, generally, I agree with the proposals and I support the Bill.

**श्री किरीट सोमैया (मुम्बई उत्तर पूर्व) :** माननीय उपाध्यक्ष महोदय, माननीय बसुदेव आचार्य जी और मि. जोस, दोनों ने जो स्माल इन्वैस्टर्स की कथा और व्यथा का वर्णन किया है, आर्डिनंस के बारे में जरूर इनके मन में कुछ मतभेद है, लेकिन यह बिल और सेबी को अधिक अधिकार देने, अधिकार का व्यवस्थित उपयोग होने और छोटे निवेशकों के हितों के निर्णय करने में उनकी भी पूरी सहमति दिखाई दे रही है। Nobody will agree in this House and nobody will support the Ordinance Raj. मैं भी उसका विरोध कर रहा हूँ। एक आर्डिनंस सिक्वोरिटाइजेशन का आया, बाद में सेबी का आया और अभी यू.टी.आई. का आ गया। I do not think anybody will like to support that part of it. यह अनुचित है।

हम सबने कांस्टीट्यूशन एमेंडमेंट बिल पास किया। सभी पार्टियों ने अपने-अपने सदस्यों को व्हिप दिया था। कांस्टीट्यूशन एमेंडमेंट क्या था कि It was an important Bill, a Constitution Amendment Bill, which was passed in November 2001. दो नवम्बर, 2002 में हम वापस 2001 में गलती से पास नहीं कर पाये, इसलिए 2002 करके हमें इस हाउस में लाना पड़ रहा है और उसके लिए दो तिहाई मैजोरिटी चाहिए, इसलिए सभी पार्टियों को व्हिप इश्यू करना पड़ता है।

आजकल बाहर चर्चा चलती है। चर्चा यह चलती है कि पांच-सात दिन, मेरे ख्याल से सदन की कार्यवाही को प्रारम्भ हुए हुए। बीच में एक दिन तो छुट्टी थी। अगर हम कुल मिलाकर वर्किंग डे पकड़ें तो छठा या सातवां दिन है। आप मीडिया में जाएंगे या अपने घर पर भी फोन करेंगे, शायद आपका भी वही अनुभव होगा। पहले पत्नी पूछती है कि आज क्या किया तो हम कहते हैं कि सदन चल रहा है। That is a big news. लोक सभा काम कर रही है, आप विभिन्न विायों पर चर्चा कर रहे हो, That is a news in itself. इसलिए मुझे मंजूर है कि आर्डिनंस नहीं आना चाहिए। लेकिन पिछली बार जब लोक सभा के सदन को माननीय स्पीकर जी ने सत्र जल्दी स्थगित किया तो उस समय मैंने आंकड़े पेश किये थे, This is the Thirteenth Lok Sabha in which we have wasted 22 per cent of the time. सदन में आकर काम-काज बन्द करवाने के लिए हमने 22 प्रतिशत समय खो दिया। तो मंत्री जी क्या करें, सरकार क्या करे और छोटे इन्वैस्टर्स क्या करें, जब आप 22 प्रतिशत समय खो दोगे, काम नहीं करोगे, विभिन्न कमेटियों में 2-2 साल तक बिल रुके रहेंगे। पेटेंट एक्ट का मुझे पता है। वह बिल तीन बार तीन अलग-अलग लोक सभा में पेश हुआ। 1996, 1998 और 1999 की लोक सभा में तीन बार एक ही बिल आया और फिर सर्वसम्मति से पास हुआ।

इस प्रकार से लोकशाही में, लोकतंत्र में अगर विचित्र परिस्थिति पैदा हो जायेगी और आर्डिनंस नहीं लाएंगे तो हम स्माल इन्वैस्टर्स को न्याय कैसे दे पाएंगे। इसलिए मुझे मान्य है, सिक्वोरिटाइजेशन बिल का दो बार आर्डिनंस निकालना पड़ता है और दो बार आर्डिनंस निकालने के बाद The Bill has been adopted unanimously. लोक सभा में और राज्य सभा में भी ये विाय आपको मान्य हैं, इसका महत्व आप मानते हैं, लेकिन आर्डिनंस अगर उस विाय का निकालते हैं और लोक सभा में चर्चा ही नहीं हो पाती है और हंगामा, शोरगुल होता है तो पता नहीं, आजकल मिनिस्टर बाहर लॉबी में चिन्ता व्यक्त करते हैं। पार्लियामेंटरी अफेयर्स मिनिस्टर को आकर कहते हैं, मस्का मारते हैं कि मेरा बिल पहले ले लो न, अभी हाउस अच्छा चल रहा है, ठीक चल रहा है, इसलिए मेरा बिल पहले पास करवा दो न, क्या पता कौन सी घड़ी में क्या हो जायेगा। वापस काम रोको प्रस्ताव लाए बगैर भी यहां काम शुरू हो जाएगा। पिछले कई सत्रों में हमने देखा कि औसतन 50 प्रतिशत दिन हमने काम किया। इसलिए मुझे यह भावना मंजूर है कि आर्डिनंस नहीं आना चाहिए। लेकिन सभी के ऊपर जो सरकार की जिम्मेदारी है, उसका वहन करने के लिए अगर कानूनी तरीके से उसके हितों की रक्षा करनी है, तो वह होनी चाहिए। सेबी का संशोधन काफी पुराना है। इस पर 1996-97 से डिबेट चल रही है। जब हार्द मेहता के ऊपर जे.पी.सी. बैठी थी, तब कहा गया था कि सेबी को ज्यादा अधिकार दिए जाएं। धानुका कमेटी और मित्रा कमेटी ने भी सेबी को ज्यादा अधिकार देने की बात कही थी। आज देखने में आ रहा है कि सेबी सिर्फ पोस्टमैन जैसा काम करती है। अगर वह किसी से कोई जानकारी मांगती है तो तुरंत उसे कह दिया जाता है कि अभी हमारे पास उपलब्ध नहीं है इसलिए नहीं दे सकते या सेबी कोई एक्शन नहीं ले सकती। इसलिए मेरा यह कहना है कि आर्डिनंस के बारे में जो भावना व्यक्त की गई है, उसकी तो मैं कद्र करता हूँ, लेकिन इस बिल के पीछे वित्त मंत्री जी की छोटे निवेशकों की रक्षा करने की जो मंशा है, उसकी कद्र करते हुए, इस विधेयक को सदन के सभी सदस्यों का समर्थन मिलना चाहिए।

बसुदेव आचार्य जी ने जो कहा, मैं उसको मानता हूँ। जब वे याचिका समिति के अध्यक्ष थे तो हमारी संस्था ने इसी सदन में इन्वैस्टर्स पीटिशन सभिट की थी। आपने उसको पीटिशन कमेटी को भेजा था। एक साल तक उस कमेटी में उस पर चर्चा हुई और कमेटी ने बहुत अच्छी रिक्मंडेशंस उस पर दीं। मैं वित्त मंत्री जी से प्रार्थना करूंगा कि उस कमेटी ने छोटे निवेशकों की रक्षा करने के लिए जो सिफारिशें की थीं, उनका अध्ययन करके आप उसको उपयोग में लाएं।

मैं मानता हूँ कि सेबी को अधिकार देना चाहिए। लेकिन समाज में यह भी चर्चा बहुत समय तक चली थी, उसमें विभिन्न मत थे, अथोरिटी, ईमानदार लोग, क्रिटीक्स, एक्सपर्ट्स और ब्यूरोक्रेट्स के मन में डिफरेंस आफ ओपीनियन था। उन्होंने कहा कि पावर तो दो, लेकिन पुलिस वाली पावर न दो, वरना सेबी पुलिस के समानांतर हो जाएगी और फिर उन पर चैक कौन रखेगा। आज भी सेबी के कुछ अधिकारियों के बारे में भ्रष्टाचार की बात उठती है। अलग-अलग प्रकार के अधिकारी हैं, वे किस प्रकार से आई.पी.ओ. कम्पनीज के प्रिफरेंशल अलाटमेंट में निर्णय लेने में विलम्ब करते हैं, उसके बारे में हम जानते हैं। जब इस प्रकार की शिकायत आती है, मुझे पता है कि कई वरिष्ठ अधिकारी हैं, वे कहते थे कि सोचो, there is a difference between the Department of Company Affairs and the Finance Ministry. There is a difference between DCA and SEBI. We all know it. दोनों आदमी जहां बैठे हैं, दोनों विभाग जहां बैठे हैं, वे अपनी दृष्टि में प्रमाणिक हैं। अगर वित्त मंत्रालय उसमें से कुछ तथ्य निकाल कर हमारे सामने लेकर आए हैं। I think this is not an end. But Sir, I would like to urge the Finance Minister on one point. If SEBI wants authority, let us give it. But that should include the clause of accountability also. And that accountability clause has to be included everywhere. Only politicians are held responsible and accountable and not the SEBI.

सेबी का 1994-95 में टेकओवर कोड लाया गया था और फिर उसको कानूनी रूप दिया गया। उस पर 1997 में कमेटी नियुक्त की और टेकओवर कोड लाए। फिर इम्प्लीमेंटेशन शुरू हुआ और लोगों से राय मांगी। इसके लिए छः महीने का समय दिया गया। फिर एक साल का समय दिया गया। उसके चेयरमैन और कोई नहीं, स्र

ग्रीम कोर्ट के माननीय न्यायाधीश पी.एन. भगवती जी थे। वह कमेटी 1997 में नियुक्त हुई। उसको छः महीने में अपनी रिपोर्ट देनी थी, लेकिन उसको रिपोर्ट देने में करीब छः साल लग गए। इस दरमियान, नॉट लैस दैन, बड़ी-बड़ी कम्पनीज के बीच वाद-विवाद चल रहा है। लार्सन एंड टुब्रो, बिड़ला, गुजरात अम्बुजा और ए.सी.सी. इसमें शामिल हैं। All these violations have been done purposely during those six years. उस कमेटी में कौन था। सभी मर्चेंट बैंकर्स, इन्डस्ट्रियलिस्ट और उनके एजेंट्स। कमेटी के टैन्योर के दौरान जब इन्वैस्टर्स एसोसिएशन ने आब्जेक्शन रज़ किए, तो मामला सेबी के पास जाता है और सेबी अलग-अलग एक्सपर्ट लीगल ओपीनियन लेती है। No, this is not violation. Till the Act is amended, and till the Committee submits its final Report, there is a loophole and it can be allowed to be exploited by the industrialists against the interest of small investors. यह ओपीनियन कौन देता है - अगर कोई लायर देता, तो मैं मान सकता था, कोई कैपिटल एक्सपर्ट देता, तो मैं मान सकता था, लेकिन Legal opinion was submitted in favour of the manipulators, in favour of acquirer and in favour of corporates by none other than the Chairman of the Takeover Code Committee. In his personal capacity as lawyer, he was giving legal opinion to the SEBI and SEBI was accepting it. You want authority but you do not want accountability. क्या उस समय के चेयरमैन की जिम्मेदारी नहीं थी, क्या वित्त मंत्रालय की जिम्मेदारी नहीं थी कि वह चेयरमैन को कहे You can take only at one place. आपको पैसा चाहिए, फीस चाहिए, तो ठीक है। You act as a lawyer, but remain Chairman of the Takeover Code Committee till the implementation. Submit legal opinion and get money from the corporates. ओपीनियन एक नहीं, बारह लीगल ओपीनियन माननीय भगवती जी ने लीं। In whose favour? Let me read that out. He has given opinion in favour of Birla and Reliance. In Gujarat Ambuja and ACC case, he has given the opinion in favour of Ambuja. सिक्योरिटी ट्रिब्यूनल ने उनको सैटबैक किया और वापिस सेबी के पास भेजा। लेकिन अथारिटी और एकाउन्टेबिलिटी कौन मानेगा? क्या यह वित्त मंत्रालय की जिम्मेदारी नहीं है, क्या सेबी की जिम्मेदारी नहीं है? अभी जो माननीय सदस्य बैठे थे, उन्होंने बहुत अच्छा बिन्दू उठाया। उन्होंने कहा कि आप सेबी को कितने अधिकार दे रहे हो और किस प्रकार के लोगों को अधिकार दे रहे हो। मैं इस विषय पर बाद में आऊंगा।

महोदय, मैं एक अन्य बात कहना चाहता हूँ। यह बात सही है, कैपिटल मार्केट को क्लीनअप करने के लिए इसमें एक और प्रावधान करने की आवश्यकता है। इस पूरे बिल को देखें, तो इसमें कहीं पर भी यह दिखाई नहीं दे रहा है कि स्माल इन्वैस्टर्स को पैसा वापिस कैसे मिलेगा। We opened our capital market and finance market in 1991. We have liberalised everything, but we could not develop a regulatory system. 1991 में हार्द मेहता स्कैम हुआ। उसके पश्चात डिबैचर्स डिबैकल स्कैम में पांच हजार करोड़ रुपए गए, प्लान्टेज कम्पनी में पांच हजार करोड़ रुपए गए, नान बैंकिंग फाइनेंस में 10 हजार करोड़ स्कैम में गए हैं। 1998 में प्राइस रिगिंग हुई और उसके पश्चात केतन पारिख द्वारा किया गया। वैनिशिंग कम्पनीज के लिए सेबी को अधिकारों की चिन्ता है, लेकिन स्माल इन्वैस्टर्स को पैसे कैसे वापिस मिलें, इसको कोई चिन्ता नहीं है। मैं माननीय वित्त मंत्री जी से कहना चाहता हूँ, हम इस बिल का समर्थन करेंगे, लेकिन हमारी राय है कि आप इस बिल को स्टैंडिंग कमेटी में विचार के लिए भेज दें। हो सकता है, समिति इस विषय पर अपने सुझाव दे सके। Let us pass the Bill. Let us accept and adopt this Bill, लेकिन मैं माननीय वित्त मंत्रीजी से प्रार्थना करना चाहता हूँ कि इसके बाद आप एक कमेटी बना दें और उसको अधिकार दे दें, जो बाद में यह देखे कि इस बिल में जो त्रुटियाँ रह गई हैं, उनको दूर करने के लिए और छोटे निवेशकों के हितों की रक्षा करने के लिए, हम एक सिस्टम एडाप्ट करें। मेरे विचार से स्माल इन्वैस्टर्स एसोसिएशन से भी सलाह-मश्विरा करें, ताकि छोटे निवेशकों को उनका पैसा वापिस मिल सके। इस बारे में आपको विचार करना चाहिए। This is going on since 1991. But I do not want to blame any particular officer or SEBI or the Minister. आप सेबी को अधिकार दो, लेकिन साथ ही एक सिस्टम का निर्माण करें। मैं आपको एक उदाहरण देना चाहता हूँ। सेबी ने वैनिशिंग कम्पनीज के लिए जो डैफिनिशन दी है, उसमें केवल 80 कम्पनीज ही आती हैं।

The Investors' Association presented a petition. The Bombay Stock Exchange had declared 963 companies as third category companies, vanishing companies which are not available to small investors. मुझे यह कहना है कि इसका निर्णय कौन करेगा? सेबी, डिपार्टमेंट ऑफ कम्पनी अफेयर्स और रिजर्व बैंक अपनी जान छुड़ाना चाहते हैं। स्माल इनवेस्टर कह रहा है 936 companies are not traceable. हम कम्प्लेंट करते हैं, वह कम्पनी एवलेबल नहीं है। क्या ऐसे ही आफिस का एड्रेस दिया है। आफिस दूसरे किसी ने ले लिया है। सेबी या दूसरा कोई कहेगा, A vanishing company will be a company where the Government *dak* is not accepted. डॉ. मित्रा कमेटी ने जो इनवेस्टर प्रोटेक्शन के लिए बातें कही थी, उन पर भी आप विचार करिए।

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Sir, as he is a Member of the JPC, he wants to make a lot of points. ...*(Interruptions)* Of course, it will be beneficial to us. ...*(Interruptions)* Can he take part in this debate?

SHRIMATI MARGARET ALVA : Shri Somaiya, as per the convention of the House, since you are a Member of the JPC, you are not supposed to speak on this Bill here. ...*(Interruptions)* Under the convention, we were told that this is not allowed. Otherwise, I also want to give my name. We were told that as Members of the JPC, by convention, we should not participate in this debate....*(Interruptions)*

SHRI KIRIT SOMAIYA : I do not think it is so. It is purely a different Bill. This has nothing to do with the JPC. This is about small investors' protection and giving more powers to the authorities concerned.

SHRIMATI MARGARET ALVA : All the information comes to you.

SHRI KIRIT SOMAIYA : If your party wants to give your name, you can also suggest certain things.

SHRIMATI MARGARET ALVA : We are talking of the convention.

SHRI A.C. JOS : By convention, Members of the JPC will not participate in the discussion on the Finance Bill of this nature. The JPC is on the stock market scam. That is why, she did not ask our party to give her name. Otherwise, had she wanted, we would have given her name. The only thing is that some impropriety is there in your participating in this debate. That is all. If you want, you can continue....*(Interruptions)*

SHRI KIRIT SOMAIYA : I beg to differ with you. If the Madam wants to speak, she can give her name. There is no



question of impropriety. Madam, if you want, you can also speak.

MR. DEPUTY-SPEAKER: Having given him the floor already, let him complete now.

SHRI KIRIT SOMAIYA : Madam, if you want to speak, you can also speak....(Interruptions)

महोदय, मैं एक और विषय में कहना चाहूंगा कि इसमें जो विभिन्न प्रोविजन लाए गए हैं, मैं आपसे विनती करना चाहूंगा कि माननीय वित्त मंत्री जी ने सेबी को एक नया स्वरूप दिया है। नये चेयरमैन आए हैं। इसकी एम्प्लायमेंट पालिसी फाइनलाइज हो गई है और साथ में टेकओवर कोड के बारे में अंतिम निर्णय दे दिया गया है। मैं चाहूंगा कि माननीय वित्त मंत्री जी इसमें और प्रयत्न करके, एम्प्लायमेंट पालिसी के बारे में उन्हें और अधिक अधिकार देने का प्रयत्न करें।

महोदय, आज सेबी के संबंध में जो एक और विषय है, वह यह है कि जो इनवेस्टर्स एजुकेशन एंड अवेयरनेस के बारे में बातें हैं, उसके संबंध में डिपार्टमेंट ऑफ कम्पनी अफेयर्स, सेबी और आरबीआई तथा म्यूचुअल फंड आदि के पास जो इनवेस्टर्स का अनक्लेम्ड पैसा पड़ा है, उस पैसे का इनवेस्टर्स एजुकेशन और अवेयरनेस के लिए उपयोग करना आवश्यक है। मुझे ऐसा लग रहा है कि आज हरेक डिपार्टमेंट अपना अलग-अलग पैसा इकट्ठा करके, जो अनक्लेम्ड अमाउंट है, उसे अपनी दृष्टि से, अपना कैम्पेन करने का प्रयत्न कर रहा है। वित्त मंत्री जी, डिपार्टमेंट ऑफ कम्पनी अफेयर्स भी इनके पास है। इस संबंध में वह निर्णय लेकर इसका किस प्रकार से एक साथ उपयोग कर सकता है। मुझे पता है कि सेबी ने एक अच्छा इनवेस्टर एजुकेशन प्रोग्राम बनाया है, जिसका अभी उद्घाटन हो रहा है। वह और ज्यादा अच्छा कैसे बने, उसके बारे में सोचने की आवश्यकता है। कई घोटाले होते हैं, लेकिन उसके प्रिवेंशन और सरवाइलेंस का जो सिस्टम है, उसे भी अधिक मजबूत करने की आवश्यकता है। उसके बारे में भी किसी प्रकार से सेबी में क्या हो रहा है और किस प्रकार से और अधिक काम होना चाहिए, इस संबंध में मैं वित्त मंत्री जी से प्रार्थना करना चाहूंगा। इसमें जो एक और प्रोविजन किया गया है - "रिगार्डिंग द पैनल्टी, द फाइनेंशियल पैनल्टी।" मुझे इस संबंध में थोड़ी क्लेरिटी की आवश्यकता लगती है। इसमें सैक्शन 16 में लिखा है और अन्य सैक्शंस में भी लिखा है - फाइनेंशियल पैनल्टी। मैं यह जानना चाहूंगा, टेकओवर कोड वायोलेशन में इस प्रकार का होता है, कम्पनी चार लाख 80 हजार रुपया भर करती है। (व्यवधान)

SHRI A.C. JOS : That is what I have also said.

SHRI KIRIT SOMAIYA : I support your point. That is why, initially I said that this is a good Bill. But some corrections may be needed. So, the hon. Finance Minister can form a small group which can interact with the small investors or the hon. Members like you. Whatever positive corrections are to be made to strengthen the investor protection measures, they can be made subsequently.

मान्यवर, मुझे बताया गया है कि टेक-ओवर और वायोलेशन में अधिकतम पेनल्टी पांच लाख है। अब अगर कंपनी को 25 करोड़ का फायदा होता है तो वह पांच लाख रुपये देकर छूट जाती है। इसलिए कंपाउंडिंग ओफेंस एक नया फैशन बन गया है। इसमें भी आपने लिखा है कि अधिकतम पेनल्टी पांच लाख या एक करोड़ या कुछ और है। मैं पूछना चाहता हूँ कि उसके पश्चात क्या होगा? एक बड़ा विचित्र केस चल रहा है। उसमें चार लाख अस्सी हजार रुपया भर दिया, लेकिन अगर उसके बाद में वह ट्रांजैक्शन नल एंड वॉइड करना चाहे तो वह नहीं हो रहा है। ट्रिब्यूनल के संबंध में जो ऑब्जर्वेशन किये गये हैं वे भी मैं आपके सामने रखना चाहूंगा। 1

"The "proper proceedings" in which a complaint from an investor can be disposed of by SEBI is the investigation procedure provided under Chapter V of the 1997 Regulations. There is hardly anything before the Tribunal to show that SEBI had carried out any investigation."

This is regarding Gujarat Ambuja case and it further says:

"It was but incumbent on SEBI to make a detailed investigation and decide the issue instead of disposing of the complaint in "adjudication style". It appears that no serious effort was made to find out as to whether control has been exercised."

The proper course for SEBI would have been to investigate the matter independently, availing the expertise available at its command. SEBI Act is a piece of beneficial legislation to protect the interests of investors in securities."

मुझे बताया जाए कि जो-जो ऑफिसर्स इस प्रकार करते हैं उन्हें वायलेंस करने के बाद में, प्रमोटर्स, मैनुपुलेटर्स, एक्वायरर्स की फेवर करने के बाद, उन पर क्या कार्रवाई हुई? सन् 1991 से लेकर 2002 तक सेबी के ऑफिसर्स, क्लर्क या चपरासी के ऊपर क्या कोई कार्रवाई हुई है? क्या सेबी में भ्रष्टाचार नहीं है? इतने फ्रॉड और स्कैम किये गये। What was the surveillance wing doing? Why were preventive measures not taken? Why was no action taken?

एक कंपनी है वल्स ग्रुप। तीन साल से सेबी की पहली लिस्ट में आती है। दस हजार कम्प्लेंट्स हैं। मैं ऐसी अनेक कंपनियों का उदाहरण दे सकता हूँ। इसलिए मैं माननीय वित्त मंत्री जी से यही प्रार्थना करूंगा कि आप जरा सोचिये कि अगर कैपिटल मार्केट का कोई प्राण है तो वह है स्मॉल-इंवेस्टर। वह मार्केट में रहेगा तो शेयर बाजार, कैपिटल मार्केट के द्वारा पैसा इंडस्ट्रीज के पास जाएगा और इंडस्ट्रीज नये-नये प्रोजेक्ट्स लगाएंगी, जिसके कारण इकोनॉमिक-ग्रोथ बढ़ेगी। लेकिन अगर उसके साथ धोखा होता रहेगा, उसका पैसा वापस नहीं मिलेगा तो विश्वसनीयता का प्रश्न आयेगा। पूरे शेयर बाजार और कैपिटल मार्केट में स्मॉल-इंवेस्टर्स कितने हैं? यूएस-64 में एक करोड़ सत्तासी लाख यूनिट होल्डर्स हैं। आज अगर हम अलग-अलग प्रकार के डिबेंचर्स, कंपनी फिक्स्ड डिपोजिट, म्यूचुअल फंड इंवेस्टर्स, and another sector which is now being opened is the insurance sector. Insurance sector, Non-Banking Finance Companies, Collective Investment Scheme, ये सब अगर हम शामिल करेंगे तो चार करोड़ के करीब इंवेस्टर्स होंगे। अतः इनकी रक्षा के लिए आपने एक अच्छा कदम उठाया है। आप सेबी को अधिक अधिकार देने वाला विधेयक लाए हैं और उसका समर्थन करते हुए मैं केवल यह प्रार्थना करूंगा कि यह तो आपका पहला कदम है जिससे उन्हें एक आशा की किरण दिखाई दे रही है।

उन्हें ऐसा लग रहा है कि पुनः एक बार कैपिटल मार्किट में पारदर्शिता और एकाउंटेबिलिटी आएगी। उनको खोया हुआ पैसा वापस आने की एक छोटी सी आशा दिखायी दे रही है। मुझे विश्वास है कि इस दिशा में यह पहला कदम धीरे से नहीं, तेज गति से दूसरा कदम, तीसरा कदम बन कर कैपिटल मार्किट

रिफॉर्म के लिए एक अच्छा बिल बन कर, अच्छा वातावरण निर्माण करेगा। हम इसका पूर्ण समर्थन करते हैं।

SHRI MOINUL HASSAN (MURSHIDABAD): Mr. Deputy-Speaker, Sir, I rise to support the Bill brought forward by the hon. Minister of Finance. When I support the Bill, I would like to say that such an important Bill has been brought forward without any scope of scrutiny by the Standing Committee. There has been a mention here about the Ordinance *raj* or the Ordinance route. The Government is in the habit of passing an Ordinance on the eve of the Session. So, while I support the Bill, I firmly believe that this process should be stopped. A clear-cut mechanism to scrutinise the Bill through the Standing Committee should be introduced so far as such an important Bill is concerned. This Bill is very much required.

In the last four or five years, the money market has frequently been hit by scams. The stock market has been hit by scams. In such a situation, this type of Bill is very much required. This Bill is trying to improve the regulatory system in the money market. So, the Bill is very much necessary. When I went through the earlier Bill passed in 1992, it had been mentioned in the Statement of Objects and Reasons that the same had been introduced or enacted to 'protect the interests of investor'. I firmly believe and you also believe that they have utterly failed to do so.

In the scam, the investors, particularly the small investors, were cheated. So, an opinion has already been expressed in this august House that SEBI should have more teeth. Earlier, it has been said that SEBI is a toothless watchdog. I agree on that point. But I must say that even the powers already lying with the SEBI have not been used on time and appropriately. .

In this regard, here is another point. I have given a quick look to some sections of the Bill. There has already been a mention about section 3(d) by my hon. friend, Shri A.C. Jos. Well, there are five Members. Among them, three Members will be full-time Directors. But there is no mention about the qualifications of the Members. When scams take place frequently in the money market, there is no transparency today. Every day, we are questioning as to why we are appointing somebody in the process of pick and choose. We must appoint whole-time Members with proper professional qualifications.

I suppose they must be from accounting or financial field. They must be Chartered Accountants or Company Secretaries or MBA (Finance).

Secondly, with regard to section 4(ia), so far as records are concerned, I would like to know what do they mean by record. In this present and changing scenario when the information technology is developing in every sphere of life, the conception of record has been changed. What about the certified copy, what about the data storage floppy, what about the print out, what about the compact disc or any other electromagnetic data storage device? It has been correctly mentioned by Shri Kirit Somaiya that there should be a small committee to interact with them for the little lacunae in the Bill and settle them out later on.

My third point is about the functioning of the SEBI. It is not up to the mark. Everybody knows and I have a report so far as the amount of investor is concerned. There was a report by SEBI, where it is stated that the number of mutual fund investors as on 31<sup>st</sup> March 2002 is 3.8 millions. Earlier, there was a report by SEBI and NCAER where it was estimated to be 23 millions as on 31<sup>st</sup> March 1999. My question is, are we to believe that about 7.8 million mutual fund investors come in Mutual Funds in three years? I suppose that it is not only improbable but also impossible.

My second observation is regarding disparity. The UTI website claims that there was an investment by 28.96 million investors as on 28<sup>th</sup> June 2002 whereas the SEBI says that it was 24.4 million investors in UTI as on March 31, 2002. It is not believable, I suppose, specially when the time is not good or when the time is very much turbulent. In this time, there is a lot of mutual fund investor coming up. It is not believable, I suppose. It is a case of impossibility again. My point is that there is a little information available regarding the small investors profiles also with the SEBI. A major portion of the policy has been designed keeping in view the small investors.

I would say that in the Act of 1992 there was lack of mechanism of investigation and enforcement. There is some clause to improve the situation in the present Bill. I must agree with that. But I must say that political will must play a vital role in this regard and I expect this from the Government side.

Again, I say, in comparison to the 1992 Act, so far the offences are concerned, insider trading, fraudulent and manipulative trade practices or market manipulation was not actually an offence in the earlier times. This time, in this Bill there are a lot of provisions to improve the situation. So, again I would like to depend upon the Government of India's will to improve the present situation and give a confidence to the money markets of our country.

I will quickly mention three-four more points here. We have seen in our practice that DCA cannot scrutinise the

companies that are registered. Why is it so? It is because of lack of adequate number of personnel available with them.

It must be looked into.

Secondly, SEBI, as seen in the recent stock market scam, had no power to seek information, scrutinise the documents of companies and the brokers operating in the capital market. So, the power of seeking information, seizure and search would help SEBI to bring to light the important aspects of unscrupulous operators and also the companies. This power should be provided to SEBI.

Another point, which has already been mentioned, is about the role of SEBI as a regulator. Sir, transparency and accountability are the main things of the present time in the money market. They are very much lagging behind. So, our demand is that transparency and accountability should be up to the mark.

I have gone through the Report of the JPC of 1992. There was a suggestion regarding corporatisation of the Stock Exchanges. It was one of the major recommendations of the JPC of 1992. I would like to know the fate of that recommendation.

Secondly, the Stock Exchanges and handful of brokers' clubs further raise the question of transparency and accountability. What is the opinion of the Government in this regard?

The third one is regarding different time frame and days settlement in different Exchanges. It is a problem. Some step has been taken in this regard but the situation has not improved. Settlement at lesser time should be provided. De-mutualisation is an important aspect, which should be looked into. Another one is online Demat form. There are several lacunae in the system and they have not yet been addressed to.

**15.58 hrs.** (Shrimati Margaret Alva *in the Chair*)

Shri Kirit Somaiya has also mentioned about the Bhagwati Commission's Report. I would refer to two recommendations of that Report. On the take-over code, there are many amendments provided in the new Bill for a level playing field for SEBI. I agree with them.

There are two sectors of disclosure of holding. One is, acquirer to make three stage disclosures – 5 per cent, 10 per cent and 14 per cent level to target the Stock Exchange market. It is a proposal. I know from the Bill that SEBI has accepted it *in toto*.

My apprehension is that there is a negative impact on the money market. Second one is change in control. It should be allowed provided a special Resolution is passed, in addition to the postal ballot. It has a negative impact on the vibrant market.

I have three suggestions to make before the Finance Ministry. Firstly, SEBI has to be more careful in deciding the composition of the Committee. Secondly, it has to fix a time frame for the submission of the Committee Report. Thirdly, SEBI needs to have some ground rules. These are my three suggestions before the hon. Finance Minister.

With these words, I conclude my speech.

**16.00 hrs.**

DR. NITISH SENGUPTA (CONTAI): Madam Chairperson, I thank you very much for giving me this opportunity.

I rise to support this Bill, which, I think, is very timely. In 1992 when the first SEBI Act was passed, not enough power was given to this body. Since then a lot of changes have taken place in the capital market. While some of the powers now being given to the SEBI, hopefully, will help the regulatory body to regulate the market, I am afraid, a lot of damage has already been done to the market in the last 10-15 years by the inability of the SEBI to really regulate.

Now, I think some of the problems raised here are subject matters of the small shareholders. It was mentioned by my friend, Shri Kirit Somaiya. It is a real problem. A market must have thousands of independent decision makers, buyers and sellers, to really make a market, whereas the system that has come into being, after the abolition of the capital issues control and the creation of the SEBI, is that you have only some of the few institutional shareholders, FIs and some mutual funds. The small shareholder, by and large, has simply done a vanishing trick from the market, thanks to the fact that the small shareholder was really crooked during the years of 1993, 1994 and 1995. After the abolition of the capital issues control, the investor was simply thrown to the lap of the greedy merchant bankers and dishonest company promoters. SEBI became a mere sightseer at that time and it was unable to control the system. So, the small investor disappeared. Therefore, some urgent thought must be given as to how we can bring back this small investor to the market so that it becomes once again a market where decisions to buy and sell

are taken by thousands of people and the total market is created by that effect.

Now, Madam Chairperson, while I support the Bill, I do not know why the strength of the Members has been raised from six to nine. What is nine-member Tribunal? Why do you not keep it at six? You are justified in giving two full-time members other than the Chairman but that does not mean that you have a big body of nine people. It is more a kind of talking shop rather than a compact executive body which can take right action. So, I would request the hon. Finance Minister not to raise the number very much.

I fully support the good suggestions made by Shri Jos, Shri Kirit Somaiya and, of course, Shri Moinul Hassan. I am very happy to see that on this Bill there is a very rare agreement among Members irrespective of their Party affiliations, to support the fact that the regulatory body should be given enough teeth to really act.

Madam Chairperson, much depends on how the SEBI acts really later on. But it is not so much on the powers that are being given but how they are being applied.

In the past, a lot of time has been given to unnecessary things like insider trading. You know there is one particular well-known multinational company which was accused of insider trading. SEBI spent so many hours and days together in trying to fix up that company and accusing the Directors of insider trading. But, somehow they forgot the fundamental fact that there has to be something called 'intent' to defraud *mens rea*. Who gained? No one gained, but it was a mere technical fault about rise and fall in the share market and the fact that some people must have known about it. But, unless it was proved that they made money out of it, I think, there was no point in proceeding with that kind of a formulation. It was right that the Finance Ministry overruled the decision of the SEBI. Insider trading should be really felt more in spirit than in letter.

In the last 15 years, we had the Harshad Metha scam. Thereafter, 10 years later, we had the Ketan Parekh scam. It was an exact replay of the former. Only the names are different. So, the point is somewhere, I think, somebody has failed and the biggest point, to my mind, is that the biggest factor in the market is sentiment. Through over-regulation in the last 10 years, we have killed that sentiment.

When the SEBI decided to abolish *badla* trading very suddenly and very drastically, that, to my mind, was not the right decision. The *badla* system had its abuses no doubt but it is more sinned against than it has sinned. It was abolished suddenly like a midnight decree of the Moghuls. In its place something called 'options and futures' was brought in. That is a sophisticated system that has prevailed in the West but it took about a hundred years to evolve. You suddenly cannot replace an existing system by a new system, which is still to stand on its ground. So, I would request the hon. Minister of Finance to have a look once again at the possibility of reviving the *badla* system in some form. He should go by the very practical report submitted by the committee headed by Shri Deepak Parekh. It made some very good recommendations about how the *badla* system could be refined. Somehow or the other, *badla* was a dirty word; the Ministry and the regulatory body simply forgot about it and did not do anything about it. They did try to introduce options and futures but it has not really taken off. To my mind, serious efforts would have to be made to revive the *badla* system in some form or the other under proper control, under proper care and with proper safeguards. That would itself bring back a lot of sentiment in the market, which has been absent at the moment.

With these words, I support this Bill very strongly. Shri Basu Deb Acharia did say a lot of things about what had happened, but sometimes I find it very strange that a Bill is being opposed for the sake of opposition and only because it has come from the Government. That was, to my mind, the spirit behind Shri Basu Deb Acharia's eloquence. This is a good Bill as shown by the fact that it has received support from all sections of the House, irrespective of party affiliations. I think, some eminently practical suggestions made by Shri A.C. Jos and Shri Kirit Somaiya should be looked into. If it is not possible now, in future, the hon. Minister of Finance should find some way to examine and implement some of these practical suggestions and also some of the suggestions that I made like the possibility of reviving the *badla* system in some form and finding ways and means of how to bring the common investor, the small investor and the prince of the market back to the market.

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): Respected Madam Chairperson, thank you very much for giving this opportunity to put forth certain ideas regarding the Securities and Exchange Board of India (Amendment) Bill. We support this Bill in all respects. At the same time, I would like to suggest certain approaches that could be considered.

As Dr. Nitish Sengupta said, the small investors have a feeling that the shares of well publicised companies are reliable. Therefore, spending on publicity is much more in certain companies and advertisements are given out to lure people so that those companies could be accepted by prospective investors for investment. The new amendment gives the right to the SEBI to control that and also stop them from publicising and advertising for the purpose of getting investments. Small investors are nowadays afraid of investing in companies because they fear that their small money would be wasted in scams. At the same time, when we have gone in for globalisation and

privatisation, people should be educated on how to invest in companies. Just as Shri Kirit Somaiya has said and has taken the initiative to unite the small investors and to educate them wherever it is possible, the same thing should happen everywhere so that people come forward to invest money, get profits by doing their own business and, at the same time, get dividends also properly.

Whenever there is a shaky market, especially in the share market people are agitated and immediately we go on saying that the SEBI should have more teeth and they should have policing powers also. Here, policing powers are given but with the restriction that they have to go to the Magistrate to get the permission before entering the premises and getting documents investigated.

I would like to suggest that the regulatory power should be a power whereby companies gain. It should help them; it should regulate them; it should make them go on the proper path; and it should not be a penalising power. If we are penalising the people, the new-comers in the corporate sector would be afraid of it and, at the same time, people who are already having very big companies, multinational companies, would use their own tools to penalise the small companies to keep them out of the competition. Therefore, that should help the small companies to come up by proper guidance. If they have committed any mistake, if there is any deviation, then they should be guided by the SEBI in the first place and the SEBI should see that they go on the proper path. Only when there is a clear case *prima facie* that they want to cheat the investors, that they want to go away from the rules and procedures, there should be a stick used against those companies. If this method is used, I feel, giving further teeth to SEBI is unnecessary, but at the same time, when there is a scam found out, then there should be a clear investigation and I hope that the provision for investigation is there only on the fear that there may be scams in future. For that purpose, they want to equip SEBI with more powers.

Shri A.C. Jos has suggested that there should be some qualification for the members and President of SEBI. I fully endorse his views. While making the suggestion, being a lawyer himself, he has said that lawyers who are practicing in the company law area and SEBI area should be accommodated as directors and simply retired persons should not be accommodated. The people who are from Civil Services have got a very soft landing after having retired from the service. That type of landing has to be eliminated. People who are active in the field, who are actually doing some business or who are company secretaries, who are active in that field, who have specialised in that field, who are academicians in that aspect, who are the practicing lawyers in the field of company law, should be accommodated as directors with sumptuous salary for them so that better guidance is given by SEBI. If proper guidance is given, then the companies will have the regulation, just like the western countries are doing it.

At the same time, I would like to submit that we have been creating companies for the past 30 years and especially for the past 10 years, we are very aggressive in coming out with more companies. But there are also companies which are vanishing from the market. There are plenty of plantation companies and real estate companies which had come, but they have vanished with all problems. The number of production units is now going down. There is no company coming out for producing the goods, but at the same time, there are many traders coming as corporate entities. There are many companies coming up in the field of services like health and a lot of other fields. Therefore, we have to encourage them to come within the four walls of rules and regulations. So, I would suggest that when rules are framed, there should be a questionnaire, which can very easily be complied with, to find out whether they are going on within the rules and regulations or they are deviating from the rules and regulations. If there is any deviation, they can be very easily told that they are going out of line and they should come within the line, and remedial steps and suggestive things can be told to them so that those companies are healthier rather than being bad ones which have to be policed and it is seen that some people are held up and punished.

In the same way, I would like to submit that rules making should also be minimum and simple one. If we go through the rules and regulations of Western countries, we find that they are very simple and very easily understandable. At the same time, by just filling up a questionnaire, any person can understand what is the need of a regulating body. We are not having that system. We are just allowing the rules to be read, gone through and interpreted with the help of legal luminaries and others. Therefore, I would like to sum up my point by saying that this step of amending the Bill is appreciable, but at the same time, it should be a comprehensive amendment; it should not be an *ad hoc* amendment for the purpose of meeting a situation, whenever it arises.

By that method, we are not helping the companies in any healthy way. It can only be termed as a fire-fighting measure and that cannot be of much help for the companies.

Finally, clause 27 provides for appeal to the Supreme Court. I would like to say that giving power to the Supreme Court is good in one way, but is not of any help to the ordinary people in another way. The provision should be such that it should enable you to appeal to the High Court first and then it should enable you to go to the Supreme Court so that the aggrieved persons can have the remedy at the nearest possible place.

With these observations, I conclude my speech.

SHRI KHARABELA SWAIN (BALASORE): I am glad that ultimately you called me because I was scared that the axe would fall on me just because I am a Member of the JPC.

MADAM CHAIRMAN : I am no one to impose conventions.

SHRI KHARABELA SWAIN : Thank you, Madam Chairperson. I rise to support this Bill because in this world, there shall always be cunning people, adventurous people, who will try to subvert the rule, who will try to pick holes in the existing system. That is why, there will always be Harshad Mehtas and others, and a powerful regulatory body is the necessity of the day to prevent them from subverting the rules. Now, the main question is, how much power a regulator should have. When there is a general discussion, people say that since there are so many regulatory bodies, we should have a super-regulator. While I fully believe that we do not require a super-regulator, it is very much essential that the existing institutions should be empowered and should be given sufficient authority and teeth so that they can prevent such occurrences. That is why, I think, the Government has introduced such a Bill. We may ask as to why it should be in the form of an Ordinance. Everybody knows that when such important Bills go to the Committees, they never come back before one or two years; everybody has got this experience. What will happen in the meantime? If another scam takes place, again, the Government will be blamed that they did not take any action. I think, as an exceptional case, these sort of measures have been taken, these sort of Ordinances have been promulgated, specifically to prevent the small investors from suffering the most.

Now, straightaway, I am coming to the provisions of this Bill. While empowering SEBI, the most important regulator, the first provision provides for increasing the number of members of SEBI from six to nine. Hon. Member, Dr. Nitish Sengupta, objected to this. He said, "What is the necessity of increasing the number of members of SEBI from six to nine?" However, I fully agree with this increase because gradually the sphere of SEBI activities is increasing, and with only six members, it will not be possible for them to investigate into everything.

It is good that the number of members, including the Chairman, has been increased from six to nine. Take again the example of the provision in this law where a qualification is being prescribed for appointment of Presiding Officer and members of the Security Appellate Tribunal. Right persons should be put at the right place. That is the way by which we can prevent occurrence of such scams. It is good that the provision for prescribing a qualification for the Chairman and the members has been provided for in this Bill.

In regard to enhancement of financial penalties to the offenders, I would like to submit that I strongly feel that such financial penalties are the strongest deterrents. The Western countries stick to these financial penalties. If there is no imposition of financial penalty, then one has to approach the courts and given the Indian legal system, as it is, one does not know as to how much time it would take to get a case disposed of. The SEBI would have to spend more money on filing and fighting a case than it would have recovered from an offender. So, it is always better to have a provision of imposing heavy penalty on the offenders. Previously, the penalty was to the tune of Rs. five lakh but that was not implemented by SEBI. Now that amount has been enhanced to Rs. 25 crore. It is a very good thing. I do agree with this enhancement of the penalty from Rs. five lakh to Rs. 25 crore. It would help instil a sense of fear in the minds of those people who dare to cheat the small investors.

While I support the Bill, I would also like to make certain suggestions. SEBI is the primary regulatory body of the Stock Exchange. It should be given teeth and powers. But the powers so given should be judiciously exercised. Shri Kirit Somaiya had mentioned that there were so many charges of corruption against the officials of SEBI. Unbridled powers should not be given and there must be a system of checks and balances while giving powers to SEBI. Why I am mentioning that powers should be exercised judiciously is because cases against a person or an institution might be kept pending for a very long time and it would mean a certain death to the person or the institution concerned. So, there should be some time-frame fixed. How much time should it take to dispose of a case? A provision should be made in the law with regard to the time-frame within which a case should be disposed of.

The second point is that SEBI does not have its own cadre. People come to this Organisation on deputation and they go back to their parent organisation after some time. So, the cadre is not properly professionalised. My appeal to the hon. Minister would be that a cadre of SEBI experts should be created. People should not be brought from outside who should stay there for some time and then go back to their respective parent organisations.

The tenure of the Chairman now is five years. I think, it should be reduced to three years because as we have seen in the past it might lead to certain corrupt practices. So, the tenure should be reduced.

We all say that SEBI should be autonomous. But the question is, to what extent should SEBI be autonomous? Ultimately, it is the Government, it is the Finance Minister who replies to the queries of the hon. Members in the House.

It is not the Chairman of SEBI who replies to the Members of this House or to the Parliament. So, how much autonomy should SEBI have? I think that there should be proper coordination. The role and the power of SEBI should be defined because ultimately it is the Government which is accountable and which replies to the questions of the Members of Parliament. So, it should also be seen that there is clear-cut coordination between the authority of the Government and the authority of SEBI.

If we really want that SEBI should be somewhat independent. The rank of the Chairman of SEBI should be equivalent at least to that of the Finance Secretary. He should not be made to report to a Joint Secretary in the Ministry. My appeal is not that the Chairman of SEBI should be ranked along side the Governor of Reserve Bank of India who is equivalent to the Cabinet Secretary in rank. I appeal that he should be ranked along side the Finance Secretary so that he will have enough independence and individual authority to investigate into certain matters.

Last but not least, with the increase in the powers of SEBI, the powers of Department of Company Affairs to be correspondingly reduced. Now it is the Department of Company Affairs which has the power of seizure and search. If we want to give that power to SEBI, the power of Department of Company Affairs must be reduced.

I wish to say that the punishment meted out by SEBI should be exemplary. I agree with the point raised by Shri Kirit Somaiya about compounding of the punishment. This would be a great factor of deterrence. I fully agree with Shri Moinul Hassan also. While I support this Bill, I would like to say that various checks and balances should be provided in the Bill.

With these words, I conclude.

**डा. रघुवंश प्रसाद सिंह (वैशाली) :** सभापति महोदय, बहस शुरू करते हुए मुझे बड़ा आश्चर्य हो रहा है। श्री किरिट सोमैया और श्री खारबेल स्वाई ने आर्डिनेंस राज से असहमति होते हुए भी आर्डिनेंस लाया गया, इसको जस्टिफाई किया है। उन्होंने व्याकुलता जाहिर की है कि सरकार इसको लाने में इसलिए व्याकुल थी, क्योंकि जो घोटालों को रोकने के लिए पर्याप्त उपाय नहीं थे, उनकी व्यवस्था तेजी से की जाए। इतना ही नहीं, दुखद बात यह है कि इन दोनों माननीय सदस्यों ने सदन की कार्यवाही की और समिति की कार्यवाही की भी आलोचना की है। हमारे यहां एक कहावत है -- नाच न जाने आंगन टेढ़ा। सरकार की अक्षमता को छिपाने के लिए सदन और समिति के समर्थक लोग उसी पर आक्षेप कर रहे हैं, यह बड़ा दुर्भाग्यपूर्ण है। सदन ठीक से चले, यह सरकार का काम है। इसका उदाहरण यही सत्र है। हम लोगों ने स्थगन प्रस्ताव दिए थे। दो स्थगन प्रस्तावों पर इस सदन में बहस हुई और सदन की कार्यवाही बाधित नहीं हुई। मेरा अनुमान है कि अगर सरकार उस पर सहमत नहीं होती, तो आज तक सदन की कार्यवाही नहीं चलती। इसलिए सदन चलाने की सर्वोच्च जिम्मेदारी सरकार की है। वह चाहे तो सदन ठीक चले और देश ठीक चले। लेकिन अगर कोई ठीक सरकार न आए, सरकार का चाल-चलन खराब हो जाता है, सदन की कार्यवाही में भी बाधा पैदा होगी और देश में भी होगी इसलिए गलत को डिफेंड नहीं करना चाहिए।

गलत नहीं कहना चाहिए। माननीय मंत्री जी बैठे हैं, वे बतायेंगे, वित्त विभाग और कम्पनी विभाग, इन दोनों विभागों की रस्साकशी की वजह से इस विधेयक के तैयार होने में विलम्ब हुआ है या नहीं? जब दोनों विभाग एक हो गए, रास्ता क्लीयर हो गया, तब इस विधेयक को लाये हैं। सरकार के विभागों में हेराफेरी, गड़बड़ी और रस्साकशी के चलते हुए और इसको जस्टिफाई करने के लिए यह आर्डिनेंस निकालना पड़ा। मेरे विचार से यह गलत प्रथा है। इस स्थिति को माननीय मंत्री जी स्पष्ट करें कि दोनों विभागों में रस्साकशी है या नहीं और दो वाँ से विलम्ब हुआ या नहीं? जब दोनों विभागों के एक मंत्री हो गए, तब रस्साकशी खत्म हुई, तब शिवजी की जटा से यह विधेयक निकाला गया। कहीं पर निगाहें, कहीं पर निशाना - अपनी कमजोरियों, गड़बड़ियों के होते हुए कहा जा रहा है कि समिति में देर हुई। समिति में तो गहन छानबीन होती है और समिति के सदस्य उठकर सुझाव दे रहे हैं। समिति में गहन छानबीन होने से देर हो सकती है, यानि ठीक काम करने से देर हो सकती है, यह बात समझ में आती है। महोदय, ऐसी ही एक विधेयक कल सदन में प्रस्तुत हुआ था। भारतीय चिकित्सा केन्द्रीय परिषद् - सरकार ने दावा किया था कि केन्द्रीय परिषद् ने ठीक काम नहीं किया है और बड़ी गड़बड़ी हो गई है, इसलिए सब पावर हमें हाथ में लेनी है। इन्होंने ही परिषद् बनाया और इन्होंने ही सेबी बनाया, इनके चलते हुए यह सब काम हो रहा है। मैं बताना चाहता हूँ, वर्ल्ड बैंक के पर्यवेक्षक ने बताया है कि देश में 6 परसेंट ही लोग जानते हैं कि सेबी से हमें सुरक्षा मिल सकती है और घोटाले को रोका जा सकता है। यूटीआई घोटाला, शेयर घोटाला, पहले मेहता फिर केंतन, सब लूट हो रही है। देश के गरीब निवेशकों का पैसा 40 मिलियन यानि 4 करोड़ रुपए है। जब रजिस्टर बनेगा, तब पता चलेगा कि असल संख्या क्या है। पहले नान-बैंकिंग में 25 हजार करोड़ रुपए का घोटाला, प्लानटेशन कम्पनी में 50 हजार करोड़ रुपए, यूटीआई, शेयर घोटाला, प्रतिभूति घोटाला, यानि जब से घोटाले का ग्लोबलाइजेशन हुआ है, तब से घोटालों का सिलसिला शुरू हुआ है। लेकिन ये दावा कर रहे हैं कि हम सेबी को ताकतवर बना रहे हैं और अब घोटाना नहीं होगा। मैं कहता हूँ, क्यों छल और धोखाधड़ी कर रहे हैं। इस विधेयक को हमने देखा है। एक स्थान पर मंत्रालयों की जगह मंत्रालय लिखा है यानि पहले विधि और वित्त मंत्रालय था, लेकिन अब विधि को हटा दिया और कम्पनी एक ही मंत्रालय हो गया। एक अन्य स्थान पर, भारतीय रिजर्व बैंक में भारतीय शब्द हटा दिया है, केवल रिजर्व बैंक रख दिया है। मैं नहीं समझ पा रहा है कि इस संशोधन का क्या मतलब है। उधर ज्यादा विद्वान लोग बैठे हुए, वे बतायेंगे कि इसका मतलब क्या है। मैं नहीं समझ पा रहा हूँ कि इससे घोटाले में क्या फर्क पड़ेगा और एफिशियेंसी लाने में क्या फर्क पड़ेगा। विधि साक्षरता की देश में ज्यादा जरूरत है, देश में बहुत ज्यादा लोग निश्चर हैं। हम लोगों को अचरज होता है, हम लोग दलाली को खराब मानते हैं। शेयर में दलाली होती है और यहां भी दलाली चलने लगी। कितना खराब काम हो रहा है। श्री वीपी सेन गुप्ता वित्त में विद्वान आदमी हैं। हम लोगों से ज्यादा समझदार हैं। यह भी कहा जा रहा है कि संख्या 6 से 9 करने जा रहे हैं, यानि ज़ोदा करने का क्या मतलब है। बड़ी को बड़ा बनाने से क्या एफिशियेंट हो जाता है। छोटी समिति ज्यादा काम कर सकती है। बड़ी कमेटी लचर हो जाती है, क्योंकि उसको बैठने का समय नहीं मिलता। यही चीज हम व्यवहार में देखते हैं।

सरकार ने दावा किया कि कमेटी और इनके पास तरह-तरह के लोग हैं। तीन सदस्यों में से दो सदस्य अन्य थे, इन्होंने पांच सदस्य किए हैं। उनमें क्या योग्यता होगी? ये कह रहे हैं कि तीन पूर्णकालिक होंगे और दो ऐसे होंगे, जो आने-जाने वाले रहेंगे। हमें नहीं लगता कि इससे कोई एफिशियेंसी बढ़ जाएगी। अब यह है कि सदस्यों की संख्या बढ़ जाने से उसकी ताकत बढ़ जाएगी, यह बात भी हमें समझ में नहीं आती है। हर सरकार में सब तरह के लोग होते हैं। मैं जानना चाहता हूँ कि संख्या क्यों बढ़ाई गई है? इनवेस्टमेंट इंडिया इकोनॉमिक फाउंडेशन ने भी सर्वेक्षण किया है। उसका कहना है कि 14 प्रतिशत लोग इन सब के काम से संतुष्ट हैं और 24 प्रतिशत लोग जानते भी नहीं हैं कि देश में सेबी है, यह कुछ काम कर रहा है। 24 प्रतिशत लोग जानते नहीं हैं कि ये क्या चीज है। इसकी ताकत बढ़ाने से लोग जानने लगे हैं। अभी तक बिना दांत के हैं और अब ये दांत वाले बना रहे हैं। वित्त मंत्री जी जो विधेयक लाए हैं, इन्होंने दावा किया है कि लूट पर लूट हो गई। फाइनेंशियल इंरेंगुलेटिज और वित्तीय मामलों में जितने घोटाले हुए हैं, उतने कभी नहीं हुए। अब सारे लोगों को विश्वास हो गया है।

महोदय, आज बैंक एम्प्लाइज़ यूनियन का प्रदर्शन था, आप भी उसमें गई थीं। इनकी जो मोटी किताब है, उससे इनका भेद खुलता है कि देश को किस ने लूटा। लोग कहते हैं - "बदनाम रहे बटमार मगर, घर को रखवालों ने लूटा।" इन लोगों का सलाहकार, जो धनपतियों का है, जो इस सरकार का मार्गदर्शक है, उनके पास इतनी मोटी किताब में लिखा है कि कौन कितना एनपीए असेट, और ऐसे असेट, जो परफोर्म नहीं करें, ऐसे असेट हैं। बैंक के खजाने से जो पैसा लूट लिया, कोई असेट का

नाम बोल रहा है, मतलब लोग लुटेरा भी कहने को तैयार नहीं हैं। इस तरह गड़बड़ियां हो रही हैं। इसलिए जो इनवेस्टर्स लोग हैं, जो पेट काट कर पैसा जमा करते हैं, मिडल और लोअर क्लास के लोग थोड़ी बचत करके जमा करते हैं, उनके पैसे की लूट हो जाती है, गायब हो जाता है। हमारे यहां एक व्यक्ति आया था, उसका उसमें पांच लाख रुपया जमा है। उसकी बेटी की शादी है तथा अन्य भी कई काम हैं। वह त्राहि-त्राहि कर रहा है। यही स्थिति छोटे इनवेस्टर्स की है। गरीब एवं मध्यम वर्गीय व्यक्ति अपना पेट काट कर पैसा जमा करते हैं, उन्हें यह सरकार संरक्षण नहीं दे पाती और ये कहते हैं कि हम सेबी की ताकत बढ़ा रहे हैं। (व्यवधान)

महोदय, आर्डीनेंस लागू होने के बाद क्या प्रतिफल होगा, यह हमें बताइए। (व्यवधान) ये जिस ढंग से कानून लाए हैं और घोटाले रोकना चाहते हैं, बड़ी दुर्भाग्यपूर्ण स्थिति है - घोटाले ही घोटाले हो रहे हैं। इसलिए सरकार को हम कहना चाहते हैं कि इस मामले में चौतरफा निगरानी रख कर ऐसा किया जाए, जिससे लूट, छल और गड़बड़ी बंद हो और लोगों में वित्तीय साक्षरता आए। लोग स्टॉक एक्सचेंज, अखबार तथा कई जगहों पर देखते हैं कि दस रुपए में खरीदा और दो रुपए में भी उसे लेने के लिए कोई तैयार नहीं होता। इतना भारी छल और धोखा कभी नहीं हुआ। इसलिए हम सावधान करते हैं कि इसे दुरुस्त किया जाए और सेबी के लिए ये कहते हैं कि इसको सक्षम बना देने से ठीक हो जाएगा। हम वित्त मंत्री जी से जानना चाहते हैं कि इससे क्या फायदा होगा। इन्हीं शब्दों के साथ मैं अपनी बात करता हूँ।

**श्री नवल किशोर राय (सीतामढ़ी) :** सभापति महोदय, आपने मुझे बोलने के लिए समय दिया, इसके लिए आपका धन्यवाद। भारतीय प्रतिभूति और विनियम बोर्ड (संशोधन) विधेयक, 2002 का मैं समर्थन करता हूँ और स्वागत भी करता हूँ। लम्बे समय से इस संशोधन विधेयक की आवश्यकता सदन में और सदन के बाहर भी महसूस की जा रही थी। अभी पक्ष और विपक्ष के माननीय सदस्यों ने इसका स्वागत भी किया है और कुछ सुझाव भी दिये हैं। माननीय रघुवंश प्रसाद सिंह जी ने कुछ बड़े घोटालों के संबंध में अपना ध्यान सरकार की ओर इंगित करने की कोशिश भी की है। यह जो संशोधन आये हैं ये छोटे इन्वेस्टर्स को बचाने के लिए आये हैं। जहां तक घोटालों की बात है तो इस सदन में उन पर बार-बार चर्चा भी हुई है और समितियां भी बनीं और उनके प्रतिवेदन भी आये तथा अभी भी कुछ समितियां उन पर काम कर रही हैं। मैं इस संबंध में अपनी चिंता व्यक्त करना चाहता हूँ।

जहां तक घोटालों की बात है तो आजादी के बाद जितनी भी सरकारें बनीं, घोटाले हुए। हार्द मेहता से लेकर और उससे पहले भी शेयर घोटाले हुए हैं। म्यूचुअल फंड के, बैंक के बाण्ड्स में घोटाले हुए हैं। राज्यों में भी घोटाले हुए हैं और सभी घोटालों पर या तो ज्यूडिशियल इन्क्वायरी या कोर्ट की इन्क्वायरी हुई। चाहे वह विधान सभा हो, लोक सभा हो या राज्य सभा हो, सभी में चर्चा हुई है। संयुक्त संसदीय समिति ने भी घोटालों पर काम किया लेकिन घोटालों का क्रम रुका नहीं। सेबी के अधिकार कम थे जिससे सेबी उन घोटालों को रोकने में सक्षम नहीं हो पाती थी। इसलिए यह जो विधेयक लाया गया है उसको और अधिकार देने की बात है, इसका मैं समर्थन करता हूँ। इसको देखने से यह स्पष्ट हो जाता है कि इसमें जांच, निरीक्षण, लेखा-परीक्षण, रजिस्ट्रीकरण और निलम्बन करने का हक सेबी को इस विधेयक से मिलने वाला है।

#### 16.42 hrs. ( Dr. Raghuvansh Prasad Singh in the Chair)

आज पांच करोड़ से अधिक छोटे इन्वेस्टर्स हैं। उनके हितों की रक्षा के लिए यह विधेयक लाया गया है और इससे उनकी रक्षा हो पाएगी, ऐसा मुझे विश्वास है। लेकिन इसी के साथ मैं यह भी कहना चाहता हूँ कि नीतीश सेन गुप्ता जी और अन्य माननीय सदस्यों ने जो 6 से बढ़ाकर 9 करने की बात कही है उसका क्या औचित्य है? माननीय सेन जी ने उसे स्पष्ट करने की कोशिश की है लेकिन मेरे मन में शंका है कि इसको बढ़ाने की क्या आवश्यकता है? दूसरे खंड में एक अपीलिय फ्रंट पर भी एक से तीन करने की बात इस संशोधन में कही गयी है और यह भी समझ में नहीं आता है। माननीय मंत्री जी जब जवाब देंगे तो इसे स्पष्ट करने की कोशिश करेंगे। सभी ने कहा है कि छोटे इन्वेस्टर्स हताश थे। जो हार्द मेहता के समय से निराश हुई और शेयर घोटाले के बाद बैंकों के बाण्ड में 2000 करोड़ के लगभग घोटाले के संबंध में चर्चा होती रही है। म्यूचुअल फंड और यूटीआई में भी हुआ और पांच करोड़ के आसपास जो इन्वेस्टर्स हैं उनकी परेशानी बढ़ी और उन पर से लोगों का विश्वास उठता जा रहा था। लेकिन जब से इस विधेयक की ओर आप बढ़े हैं तब से उनमें फिर से विश्वास पैदा होने लगा है। मैं माननीय मंत्री जी को धन्यवाद दूंगा कि आपके हाथों में वित्त और कंपनियों के कार्य आये हैं और जो काम हुए हैं उनसे लोगों में विश्वास बढ़ा है। सेबी की शक्तियों को बढ़ाकर जो आप दे रहे हैं उससे यह विश्वास और भी मजबूत होगा। आपको और भी अगर कोई उपाय करने पड़ें तो आप हिचकेंगे नहीं। बड़े निवेशक तो कमाते हैं लेकिन जो पांच करोड़ के आसपास छोटे इन्वेस्टर्स हैं वे बर्बाद हो जाते हैं।

पिछले 50 सालों में जो छोटे घोटालों से लेकर बड़े घोटाले हुए, उनसे कई छोटे निवेशक और मध्यम दर्जे के लोग बरबाद हो गए। इस दिशा में अच्छा प्रयास किया गया है। यदि इसमें और भी उपाय करने पड़ें तो किए जाएं। यह उस समय हास्यास्पद बात लगती है, जब हम सदन में बार-बार घोटालों पर चर्चा करते हैं और शेयर घोटालों से लेकर म्यूचुअल फंड घोटाला और यूटीआई घोटाले तक वह बढ़ता जाता है। इनकी जांच के लिए जेपीसी बैठ जाती है। उसके प्रतिवेदन और सिफारिशें भी आती हैं लेकिन उन सिफारिशों का क्या होता है, यह मैं नहीं जानता। इस बारे में आप बता पाएंगे। यह क्रम इसके बाद भी नहीं रुकता है। बोलने के क्रम में इस सरकार पर जो आरोप लगाते हैं, मैं उनसे सहमत नहीं हूँ। पिछले पचास सालों में घोटालों पर घोटाले हुए।

आज देश में राज्यों और केन्द्र में मिली जुली सरकारों का दौर है। कोई यहां सरकार में है और कोई वहां सरकार में है लेकिन हर जगह घोटालों में घोटाले हो रहे हैं। आप इस दिशा में मुकम्मल इंतजाम करने के लिए सभी पक्षों को साथ लीजिए। सेबी के अधिकार बढ़ाने के बाद जरूरी लगे तो दूसरे मुकम्मल इंतजाम किए जाएं। जिस प्रकार पिछले 25 सालों में बाढ़ की तरह घोटालों की संख्या बढ़ रही है, वह एक बार रुकनी चाहिए और कम करने का काम होना चाहिए।

मैं दो और बातों पर चर्चा करके अपनी बात समाप्त करना चाहता हूँ। जब सभापति महोदय बोल रहे थे तो उन्होंने कुछ बातों की तरफ इशारा किया। मैं स्पष्ट करना चाहता हूँ कि निश्चित रूप से देश में जो साक्षरता की स्थिति है, उसके हिसाब से वित्तीय साक्षरता अच्छी-अच्छी दसवीं-बारहवीं कक्षा तक पढ़े लोगों के पास नहीं है। वे सेबी और सैंसेक्स को समझ नहीं पाते हैं। आजादी के 50 वां बीत चुके हैं। एक ऐसा मिशन जरूर बनाएं चाहे वह फंड के आधार पर हो या किसी संगठन के माध्यम से हो लेकिन वह साक्षर लोगों में कम से कम वित्तीय साक्षरता का आधार बन सके जिससे वे मोटी-मोटी बातों को ठीक से समझ पाए। तभी इन घोटालों और गड़बड़ियों से बचा जा सकता है। इसके लिए यदि सेबी या दूसरी किसी संस्था को अधिकार देने पड़ें तो वे भी दे दें। श्री खारबेल स्वाई, श्री किरीट सोमैया और श्री हसन और श्री नीतीश सेन गुप्ता द्वारा दिए गए अच्छे सुझावों का मैं समर्थन करता हूँ।

आज नैतिकता का ह्रास हो रहा है। चाहे जिस फ्रंट में देखें, नैतिकता का अकाल आ गया है। इसे रोकने के लिए सदन सक्षमता से कार्यवाई नहीं करेगा और नैतिक मूल्यों में हो रहे ह्रास को रोकना नहीं जाएगा तो लागू करने वाले व्यक्ति की व्याख्या पर कानून डिपेंड करेगा। इस बात पर चर्चा होनी चाहिए जिससे देश को अच्छी स्थिति पर पहुंचाया जा सके। जब तक यह नहीं होगा तब तक चाहे आप कितने कानून बना लें, इसे रोकना कठिन होगा। लागू करने व्यक्ति की मंशा पर सब बातें आधारित होती हैं। यही सुझाव रखते हुए मैं अपनी बात समाप्त करता हूँ। यह बिल लाने के लिए मंत्री जी को बधाई देता हूँ और इस बिल का पुरजोर समर्थन करता हूँ।

**श्री श्रीप्रकाश जायसवाल (कानपुर) :** सभापति महोदय, मेरे से पूर्व कई वक्ताओं ने सेबी अमेंडमेंट बिल के संबंध में अपने सुझाव प्रस्तुत किए हैं। आपने मुझे अपने सुझाव प्रस्तुत करने का अवसर प्रदान किया जिस के प्रति मैं आभार व्यक्त करता हूँ।

देश में पिछले 10-12 सालों में जिस तरह से घोटाले और सट्टेबाजी कैपिटल मार्किट में हुई, उसकी दूसरी कोई मिसाल नहीं मिलती। लाखों इनवेस्टर्स बल्कि दो करोड़ इनवेस्टर्स इस सट्टेबाजी और घोटालेबाजी से प्रभावित हुए। पूरे देश में हमारे पूंजी बाजार का ऐसा माहौल बन गया है कि छोटा निवेशक पूंजी बाजार में आने के



लिये तैयार ही नहीं है। सरकार ने पिछले 7-8 सालों से छोटे-बड़े कई सारे उपाय किये हैं लेकिन उसका परिणाम अभी तक पूंजी बाजार के अनुकूल नहीं बना है। आज परिस्थितियाँ ऐसी हैं कि ग्लोबलाइजेशन का दौर है, निजीकरण का दौर है। सरकारी क्षेत्र अपने क्षेत्र से कदम पीछे हटाता जा रहा है। इस कारण निजी क्षेत्र का सहारा लिये बिना कोई विकल्प नहीं है। यह हमारे देश को औद्योगीकरण दे पायेगा, यही देश की अर्थ-व्यवस्था को सही पटरी पर ला पायेगा, इसके अलावा और कोई विकल्प सरकार के पास नहीं है। जिस तरह से पूंजी बाजार में घोटाला हुआ है, जिस तरह से छोटे निवेशकों का अरबों रुपया पूंजी बाजार के माध्यम से तमाम 420 कम्पनियों और लोगों ने लूटा है, अगर सरकार उस विश्वास को वास्तव में वापस लाना चाहती है तो यह बात सही है कि सेबी को बहुत बड़े अधिकार देने के लिये इस देश में बात पिछले कई वर्षों से उठायी जा रही है। हम तो समझते थे कि इस तरह के संशोधन बिल को पार्लियामेंट में पास हो जाना चाहिये था लेकिन किसी न किसी कारण से लम्बे समय से यह बहुप्रतीक्षित विधेयक 8-10 साल के बाद पार्लियामेंट में प्रस्तुत किया गया है।

सभापति महोदय, बिल के प्रस्तुत किये जाने के अलावा सरकार के पास कोई विकल्प नहीं था। जब तक सेबी को वह अधिकार या ताकत नहीं दिलायी जायेगी जिससे बड़ी-बड़ी कम्पनियों, बड़े-बड़े डायरेक्टर्स, मैनेजिंग डायरेक्टर्स पर अंकुश लगा सके, पूरे के पूरे तंत्र पर अंकुश लगा सके, छोटे निवेशकों का कल्याण कर सके, तब तक पूंजी बाजार की तरफ आशा करना व्यर्थ है। मैं उम्मीद करता था कि इस बिल के माध्यम से ऐसे कठोर कदम उठाकर सेबी को अधिकार दिलाये जायेंगे जिससे हमारे देश की पूंजी व्यवस्था पर अनुकूल प्रभाव पड़ेगा लेकिन मैंने बिल को देखा है और पाया है कि सेबी को जितने अधिकार मिलने चाहिये, उतना सरकार नहीं दे रही है।

सभापति महोदय, भारत सरकार इस बात को कबूल करती है कि देश में लगभग 250 कम्पनियों ने छोटे निवेशकों का 1200-1300 करोड़ रुपया पिछले वर्षों में लूटा है। अगर आप उन निवेशकों को पूंजी बाजार के लिये आकर्षित करना चाहते हैं जिनका एक लाख या 50 हजार या 25 हजार रुपया डूब गया है लेकिन मिला नहीं और वे अपने घरों को सहला रहे हैं, उन्हें पूंजी बाजार में पैसा लगाने के लिये कहना चाहते हैं। जब तक उनका डूबा हुआ पैसा या आधा पैसा दिलाने का आश्वासन सरकार नहीं दिलायेगी, तब तक वे छोटे निवेशक पूंजी बाजार में आना चाहेंगे, ऐसा इस बिल में कोई प्रावधान नहीं है। इस डूबी हुई रकम में घोटाला आ गया, ऐसा कोई कदम सरकार ने नहीं उठाया है जिसमें छोटे निवेशकों का डूबा हुआ पूरा तो छोड़िये आधा पैसा भी सेबी के माध्यम से मिलने की उम्मीद हो।

सभापति महोदय, मेरा सब से पहला संशोधन और सुझाव इस बात के लिये है कि सरकार को कोई ऐसा आश्वासन या कानून में संशोधन का प्रस्ताव लाना चाहिये था जिससे छोटे निवेशकों में उम्मीद जगती कि आने वाले समय में या तीन साल में छोटे निवेशकों का पूरा पैसा या उसका आधा अंश भी उन्हें जरूर प्राप्त हो जाता। अगर ऐसी व्यवस्था की गई होती तो छोटे इन्वेस्टर्स में विश्वास और आशा की भावना जागती।

मेरा दूसरा सुझाव है कि सेबी के बोर्ड ऑफ डायरेक्टर्स की संख्या कितनी हो, मैं इस पचड़े में नहीं जाना चाहता। लेकिन मैं माननीय वित्त मंत्री जी से एक अनुरोध जरूर करना चाहता हूँ कि जिन इन्वेस्टर्स को आप आकर्षित करना चाहते हैं, जिन इन्वेस्टर्स में आप विश्वास की भावना जगाना चाहते हैं, बोर्ड ऑफ डायरेक्टर्स में उन इन्वेस्टर्स का कोई भी प्रतिनिधि न हो, यह बड़ी अजीब सी बात लगती है। मेरा माननीय वित्त मंत्री जी से अनुरोध है कि सेबी के द्वारा एप्रूव्ड इन्वेस्टर्स एसोसिएशन में से एक व्यक्ति सेबी का डायरेक्टर जरूर बनाया जाना चाहिए, जिससे इन्वेस्टर्स को यह भरोसा हो कि हमारा भी प्रतिनिधि सेबी में बैठा है, जो हमारी लड़ाई और हमारे संघर्ष को लड़ सकता है।

मेरा तीसरा सुझाव है कि पब्लिक इश्यु या राइट इश्यु के माध्यम से जिस कंपनी या व्यक्ति द्वारा जिस उद्देश्य से पैसा लिया गया है, अगर उस उद्देश्य के अलावा वह पैसा कंपनी या व्यक्ति कहीं और इन्वेस्ट करता है और इसकी सूचना स्टॉक एक्सचेंज को नहीं देता है तो सेबी के द्वारा इतनी कड़ी कार्रवाई ऐसी कंपनियों के खिलाफ की जानी चाहिए कि जिससे किसी दूसरी कंपनी की हिम्मत न पड़े कि उस पैसे को उसने इन्वेस्टर्स से किसी विशेष मकसद के लिए लिया है, वह उसे कहीं दूसरी जगह इन्वेस्ट करने की कोशिश न कर सकेगी।

मेरा चौथा सुझाव है कि जिन कंपनियों के खिलाफ घोटाला या गबन के आरोप सिद्ध हो चुके हैं, महोदय अभी तक बिल में इतना प्रावधान है कि उस कंपनी का डायरेक्टर या मैनेजिंग डायरेक्टर पांच साल के लिए उस कंपनी से हटा दिया जायेगा। हमने उसे क्या सजा दी। अगर कंपनी के उम्र गबन और घोटाले का आरोप सिद्ध हो गया है तो स्वाभाविक है कि उसके डायरेक्टर और मैनेजिंग डायरेक्टर को पांच साल के लिए बार कर दिया जायेगा। वह पांच साल तक उस कंपनी का डायरेक्टर और मैनेजिंग डायरेक्टर नहीं रह सकता है। यह उसके लिए कोई बड़ी सजा नहीं हुई। इसमें यह प्रावधान होना चाहिए कि ऐसी कंपनी के डायरेक्टर और मैनेजिंग डायरेक्टर को किसी भी लिस्टेड कंपनी के डायरेक्टर और मैनेजिंग डायरेक्टर के पद पर कार्य करने के लिए पांच वर्षों तक के लिए बार होना चाहिए। वह पांच साल तक किसी भी लिस्टेड कंपनी का डायरेक्टर या मैनेजिंग डायरेक्टर नहीं बन सकता। यह अधिकार सेबी को दिया जाना चाहिए। इससे जो लोग बेईमानी की नीयत से कंपनियाँ बनाते हैं, जो लोग बेईमानी की नीयत से मैनेजिंग डायरेक्टर और डायरेक्टर बनते हैं, उन पर अंकुश लगाया जा सके।

मेरा पांचवा सुझाव है कि फ्रॉडुलेन्ट कंपनियों की संपत्ति को जब्त करने का अधिकार भी सेबी को दिया जाना चाहिए। आपने सेबी को कंपनी की संपत्ति को जब्त करने का अधिकार नहीं दिया है। यदि कंपनी की संपत्ति जब्त नहीं की जाती है, एक ऐसी कंपनी की संपत्ति जिस कम्पनी ने हमारे देश के करोड़ों निवेशकों का पैसा लिया है और वह निवेशकों के साथ धोखाधड़ी और बेईमानी करती है, उसकी संपत्ति को जब्त करने का अधिकार सेबी को नहीं है। जब तक यह अधिकार सेबी को नहीं दिलाया जायेगा, तब तक सेबी कड़ी कार्रवाई नहीं कर पायेगी।

मेरा एक और सुझाव है कि सेबी के द्वारा बनाये गये कानूनों के गंभीर उल्लंघन पर जैसे इनसाइडर ट्रेडिंग, फ्रॉडुलेन्ट एंड अनफेयर ट्रेड प्रैक्टिसेज इस तरह के अपराध करने पर कम से कम छः महीने की कैद की सजा का प्रावधान जब तक ऐसी कम्पनी या उस व्यक्ति के लिए नहीं रखा जायेगा। तब तक उन पर अंकुश नहीं लगाया जा सकता।

## **17.00 hrs.**

उनकी बेईमानी और उनकी नीयत पर अंकुश नहीं लगाया जा सकता। सेबी का एक दायित्व यह भी होना चाहिए कि ठगे गए इन्वेस्टर्स की क्षतिपूर्ति उन कंपनियों या उन व्यक्तियों की संपत्ति से वसूल कर इन्वेस्टर्स के लिए की जानी चाहिए। ऐसी व्यवस्था नहीं की जाएगी तो ढाक के तीन पात वाली बात होगी। देहात की एक कहावत है कि कोई पेड़ काटना होता है तो नहनियों से पेड़ नहीं कटता, उसके ऊपर कुल्हाड़ियाँ चलानी पड़ती हैं। इतनी बड़ी बुराई ने हमारे देश में जन्म ले लिया है और 21वीं सदी के दौर में जबकि पूरे के पूरे देश की अर्थव्यवस्था धीरे-धीरे पूंजी बाजार के उम्र आश्रित होती जा रही है, हम छोटे-मोटे कानून बनाएंगे, मामूली से धारदार हथियार देंगे सेबी को और सेबी से उम्मीद करेंगे कि इतने बड़े फ्रॉड को, इतने बड़े चार सौ बीसियों को, इतने बड़े धनाढ्य लोगों पर अंकुश लगाएँ, मेरी समझ से यह स्वाभाविक घटना नहीं होगी। इसके लिए जब तक कड़े से कड़े कानून नहीं बनाए जाएंगे, जब तक उनमें यह भय व्याप्त नहीं होगा कि अगर हमने तनिक सी भी बेईमानी की नीयत बनाई तो सेबी हमें तबाह कर देगा। जब तक यह भय उनमें नहीं होगा तब तक उन लोगों पर अंकुश नहीं लगाया जा सकता।

अंत में मेरा एक सुझाव है। सेबी बार-बार कहती है कि हमारे पास धनाभाव है। वह कहती है कि हमारे पास संसाधनों का अभाव है। हम कैसे वर्तमान प्रणाली में, वर्तमान दौर में तमाम बड़ी-बड़ी कंपनियों पर निगरानी रख सकते हैं, कैसे हम उनकी व्यवस्था कर सकते हैं। मेरा आपके माध्यम से वित्त मंत्री जी से अनुरोध है कि सेबी को इतनी पर्याप्त मात्रा में संसाधन उपलब्ध कराएँ कि वह ऐसे अनुभवी स्टाफ को, जिनको चाहे कितनी भी तनखाह देनी पड़े, अपने विभाग में रखने में सक्षम हों जो इन कंपनियों के लिए और ऐसे लोगों की तमाम नाजायज़ हरकतों पर अंकुश लगा सकें। ये मेरे कुछ सुझाव हैं और मैं उम्मीद करता हूँ कि माननीय वित्त मंत्री जी हमारे सुझावों पर बहुत गंभीरता से विचार करेंगे। इस संशोधन बिल पर किसी को भी एतराज़ नहीं हो सकता है। मुझे भी सेबी अमेन्डमेंट बिल पर कोई एतराज़ नहीं है।

मैं इसका समर्थन करने के लिए ही खड़ा हुआ हूँ, लेकिन समर्थन शर्तों के साथ करना चाहता हूँ। मेरा माननीय वित्त मंत्री जी से अनुरोध है कि अगर इन शर्तों को माननीय वित्त मंत्री जी कुबूल करेंगे, इनका समायोजन करेंगे, तब वास्तव में सेबी एक अधिकार संपन्न संस्था होगी। मैं एक अनुरोध और करता हूँ कि हर क्षेत्र में हर बात पर भारत सरकार अमेरिका की ओर आश्रित रहती है, अमेरिका की ओर आँख उठाकर देखती है। माननीय वित्त मंत्री जी से मैं कहना चाहूँगा कि अमेरिका में जो रेगुलेटरी संस्था है, उसको ये सारे अधिकार प्राप्त हैं जिन अधिकारों का जिक्र मैंने आपके सामने किया है। अगर आप अमेरिका से ही प्रेरणा लेना चाहते हैं तो अमेरिकन रेगुलेटरी बॉडी से ही प्रेरणा लेकर सेबी को इतने अधिकार उपलब्ध करा दें जिससे आने वाले समय में निवेशकों का उत्साह, निवेशकों का विश्वास जागे और हमारे देश का पूँजी बाज़ार भी पश्चिम के तमाम बड़े देशों के पूँजी बाज़ारों के तरीके से खड़ा हो सके।

SHRI PRABODH PANDA (MIDNAPORE): Thank you, Mr. Chairman, Sir. I am aware of the time constraint. So, I would not take much of the time. So, I request the Chairman to allow me to complete all the points. I have just listened to hon. member Shri Kirit Somaiya and other friends who mentioned that they are not in favour of Ordinance Raj.

But the fact remains that it is an ongoing process. The promulgation of this Ordinance was done on 29<sup>th</sup> October, 2002. The Winter Session was to commence on 18<sup>th</sup> November, 2002. Just only after 18 days of the promulgation of this Ordinance, the House met. What was the hurry in promulgating this Ordinance? The point is that nobody is going to object to this Bill. Today, the deliberations in this august House reveal that cutting across party lines, all the leaders and all the hon. Members of this House are supporting this Bill. So, what was the hurry in promulgating the Ordinance? Just 18 days before the House was to meet, the promulgation was done. This is not understandable.

There is the Standing Committee on Finance. I am also a Member of the Standing Committee on Finance. Hon. Members Shri Kirit Somaiya and Shri Kharabela Swain are also Members of the Standing Committee on Finance. So many points have been raised here. Hon. Members Shri Jaiswal, Shri Kirit Somaiya, Shri Moinul Hassan and others have raised so many important points. The Standing Committee is a Committee meant to scrutinise and crystallise the Bill. So, my point is that this style of functioning is not good. It is just minimising the importance of parliamentary democracy and the democratic norms. So, I am against the Ordinance Raj. I am not against this Bill.

It seems that the perceptions of the Government of the day are as good as the Ordinance Raj. Many shortcomings in the provisions of the SEBI Act, 1992 have been noticed, particularly in respect of inspection, investigation and enforcement. There are fraudulent corporates who have become the foremost cause of this. It is understandable if something is done to curb the frauds. The problems of small investors started when the stock market became an attractive investment place for the middle class. There is also the coincidence of the foreign companies taking the public issue route to dilute the equity. The role of the market regulator began to emerge with the SEBI seeking to protect the investors' interests.

There have been too many scams in the Indian financial markets. But too little effort has been made to ensure that the wrongdoer is sufficiently charge-sheeted.

The hon. Member Shri Kharabela Swain demanded that exemplary punishment should be given. But what has happened? This is my point. Steps must be taken to curb the corporate frauds in any manner. Nodoubt, it has to be done. The small investors are to be protected at all costs. But my point is that all these measures should carry greater conviction from the Government whose own record and ethics can be at least described as commendable, if not of the highest standards. The Government of the day is citing the examples of scam after scam. So, it is doubtful as to how far this Act will be effective.

Sir, the Government has also decided to set up a Security Appellate Tribunal, a body where decisions of SEBI can be challenged. It has appeared in the Press that two posts are lying vacant in SEBI for nearly one year. Why have they not been filled up? If the Government is reluctant to fill up those posts, then how can we expect SEBI to be more effective?

So, broadly I support this Bill, but I am against this style of 'Ordinance raj'. At the same time, I express my grievance that it would be better to send this Bill to the Standing Committee for a thorough scrutiny. I think the hon. Finance Minister would think over it and think over all other suggestions which have been put forward in this august House.

SHRI VIJAYENDRA PAL SINGH BADNORE (BHILWARA): Mr. Chairman, sir, I rise to support the Securities and Exchange Board of India (Amendment) Bill, 2002 at a time when the Sensex is looking up. It is really a very good looking sign and, I think, the market is looking up after a very long time after the scam which took place nearly 1 ½ years ago.

Sir, we have had a long rally, a sustained rally, from the Sensex going down to 2,800 points and yesterday it has reached nearly 3,200 points. I do not know whether it going up or down today, but it has been going up recently and, I think, quite a few announcements by the Finance Minister have enthused the market. I remember that it had

appeared in the newspapers the other day that there is no liquidity in the capital market and the Finance Minister is making a paper to see how a mechanism can be put in so that there is liquidity and investment in the market.

Sir, I would like to submit that the Government might give all the powers to SEBI. An hon. Member was saying that the provisions in this Bill are not good enough and the Government has to give even more powers to SEBI. What is the role of SEBI? It is like a traffic policeman. There are hundreds of cars moving around him. He does not need an AK-47 to regulate them. He just needs to blow a whistle and that is the way a regulator should function. If you give him all the powers, but if he does not take any action, then he is of no use. We have been seeing for a long time in most of the newspapers that SEBI is not taking any action with all the powers that have been given to them in 1992. The first amendment came in 1995. A Security Appellate Tribunal was constituted, but it has not been using its powers. How many erring companies and brokers have been penalised? You may give more powers and you may appoint more Directors, but what is the use if the powers are not used?

Sir, a mention has been made here very rightly, and I also agree, that SEBI exists for investor protection, by regulating various players in the capital market.

In this primary job, the track record of SEBI has at best been patchy and at worst ineffective.

I just want to say one thing. A mention was also made about the United States. I agree to the extent that Arthur Levitt, the last Chairman of the US Securities and Exchange Commission is acclaimed to be one of the finest Chairmen because he fought for the rights of the investors. Thus, although the Dow Jones index in the NASDAQ is plunging, yet he is hailed as one of the best Chairmen that SEC has had.

I just want to put in a few of my suggestions looking at the paucity of time. My first suggestion is this. One of the reasons for the mixed performance is lack of professionalism at SEBI. To ensure that SEBI function as an independent body and in a professional manner, the following steps need to be taken.

All senior appointments at or above the level of the Executive Director should be made by an independent Committee of Experts, and deputation from other Government Services like the IRS and the IAS should not be there because we are not professional people. If you see, in the SEBI today most of the Directors are from the IRS. They have no concept of the capital market. They just learn when they get in there. The appointments of members and Chairmen of SEBI should also be done by an independent Committee of Experts and not by the Ministry of Finance or a Committee of that Ministry. You have an Expert Committee that recommends it to the Finance Minister and he takes a decision.

More importantly, a majority of the Directors and Members of the SEBI Board should be professionals from the fields of finance, economics, law, accountancy rather than bureaucracy. These persons should also be selected by an independent Committee. I have already said so.

Last but not least, SEBI should be made accountable directly to the Legislature and not to the Ministry of Finance.

An argument has also cropped up regarding the super regulator or a lead regulator. Now that is also a deficiency. You have got a few regulators. You have the RBI. You have the DCA. You have the SEBI. A decision taken by one is not implemented by the other. To give you a case study or an example is the scheme about lending and borrowing of shares. Now there is an asymmetry to the extent that one can go. That was one of the reasons of the scam. I am not getting into the scam. But one of the reasons was that one could borrow thousands of shares worth crores of rupees. But on the other hand, the Central banking regulator, the RBI, has Rs. 10 lakh capital investment of the banks into the shares. Now, who is going to look into that asymmetry? Is it always going to be referred to the Minister of Finance? There should be some sort of a lead regulator.

All these aberrations, I think, will be cleared when the JPC puts forth their recommendations and their Report. But, in the meanwhile, what has been done is a welcome step by the capital market. The market going up is an indication of that. I support this Bill.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Mr. Chairman Sir, since the discussion is being held, clubbing both the items 17 & 18, pertaining to disapproval of the Ordinance as well as the very Bill itself, I would like to first explain as to why we gave the notice of disapproval. It appears to be a very routine nature of notice by the Opposition as it happened on the earlier occasions in Ordinances when they were promulgated, but it is not a routine nature.

Sir, in this very house, time and again, things have been debated on the very constitutional provision of the

Government's functioning as to why the Council of Ministers is accountable to Lok Sabha and not to Rajya Sabha. It is the people of India who gave their mandate to the representatives here to discuss not only the matters of the nation, but so much so in particular the financial matters of the nation.

Sir, on the wisdom of the then Speaker, Shri Shivraj V. Patil, who is now, of course, the Deputy Leader of our Party and other eminent parliamentarians, it was considered that in the complicated situation in this country, specially on the financial front and other matters, it would be more appropriate if the Members give their views and observations candidly, coolly and with greater observation by the experts through the Standing Committees.

I can understand a natural emergency for which the Constitution gives the authority to the Government to bring Ordinance. An Ordinance also does have a constitutional obligation by a certain period to be approved by the Parliament. I am not talking of emergency of that nature. The Government of the day, that is the NDA Government, headed by our hon. Prime Minister Shri Atal Bihari Vajpayee has witnessed, in several adjournment motions and motions under rule 184, in this House, and also earlier when Shri Narasimha Rao was the Prime Minister when the Act was enacted in 1992, as to what do we mean and what is the agony of the people in the stock market scam, the journey which began from Harshad Mehta and still not ended with Ketan Parekh. While the Government knew this fact, the Government was equally aware that to plug the loopholes of 1992 Act, a comprehensive legislation is required. The Narasimham Committee I & II and the Committee further more, which is the basis of Andhyarujina Committee, gave their recommendations and the Government did appoint the committee on the very right directions to understand in more details. You will appreciate, Mr. Chairman Sir, while the Government has the prerogative, wisdom, and capacity in complicated matters to appoint a Committee to get the advice or the recommendations, equally this Lok Sabha has its competence, as per the rules book and the statute book that we have, to go in such detailed matters with a comprehensive approach of the entire details for a comprehensive scrutiny. That is why the standing committee is.

It is not that if Ordinance had not been issued, the country would have been looted within 24 hours. The Government could have come to the House straightaway saying that we have examined the report of the Narasimham Committee and other Committees, and now we have come with this legislation, you take time to examine it and come back to us with a report. That is why we gave the notice of disapproval and not on the routine nature.

I felt that this Parliamentary Standing Committee could have invited eminent experts, banking groups, UTI group, SEBI and other people to understand more in detail each of its provisions and could have strengthened the hands of the Government and the Minister. My point is that the hon. Minister must educate and enlighten the House as to why he tried to by-pass this route making, if not an assault, a kind of total neglect to the very powerful standing committee of the Parliament to go through it. That is why he brought an Ordinance, ignoring the route of bringing a straight legislation in the House.

This practice, whether we sit on this side or that side of the House, specially in the financial matters cannot be encouraged in future. This is not fair and I hope while the Government replies, it will satisfy the House what was the necessity to bring the Ordinance without bringing the straight legislation to the House.

Sir, every section of this House is supporting this Bill. The Congress Party is very much supporting this Bill. We took a conscious decision to support this Bill *in toto*. The Joint Parliamentary Committee on Stock Market Scam is yet to submit its Report to Parliament. We are told that in this Session the Report is expected to be laid on the Table of the House. Will the Finance Minister assure the House – the JPC is examining the entire matter in depth – after the Report of the JPC is tabled, if there are certain observations which require to be taken care of by the Finance Ministry and if necessary, to incorporate certain amendments in this Bill and also the earlier Bill on NPA recovery, which was passed, that he will add necessary amendments in that light? This assurance is not a big assurance. It will be a respect to at least one Committee which is looking into the details of the Stock Market Scam. That is my first question.

Secondly, there is a belief – I said this in my earlier Budget speech – that the stock market is now a casino for a few hours of the foreign players. A few foreign investment institutions and their cohorts actually direct and operate. The Minister must be aware about the level playing ability of many groups in India – medium scale and other scales. They have literally lost out of the market and they have no capacity to prevail in the market and SEBI, at the primary stage, did not give any cognisance to this fact. I want to know whether the Minister is aware that this practice is still on. Will the Government do something in this regard?

I would like to ask my third question, besides this casino, which I said and I will continue to say. I give an example. A French company, Lafarge came in India in a big way in the cement industry. In the Indian cement industry, we have a number of private units throughout the country. One fine morning, suddenly, as if getting out of the home after the sleep, we found in the walls, in the hoardings, in the entire Indian stations and in the Indian Airports, a new word, Lafarge came from France. They started buying Indian companies and everything. Later on, I gather – I am not sure

and the Minister may correct me if I am wrong – that Lafarge did not bring a single penny in the Indian market. On the other hand, they tried to make money from our financial institutions and the banks, thereby trying to buy all our units, and brought down the price in such a manner that the capacity to withhold the operation of the Indian companies was totally destroyed. When the Indian companies lost their total balance, then they jugged up the price. This is how it had happened.

The 1992 Act, in spite of many loopholes, did give SEBI to look into this matter, which SEBI did not. Well, SEBI was too busy with Tehelka group investigation, not that much for Lafarge and other things. That is a different matter.

If not today, at least tomorrow or next week, will the Finance Minister table in this House a list of the companies which were taken cognisance by SEBI to start the investigation before this Ordinance was promulgated? In that list, how many Mauritius-route units were involved? These Mauritius-route companies made plunder in this country, cheated the nation and the Government. Which are the cases where SEBI had intervened and which are the cases where SEBI had not intervened? These questions should be answered threadbare, if not now but they should be tabled later on. This is the demand of the principal Opposition Party to the Government to understand more the details of the inside scenario of the stock market.

With these words, I fully support this Bill with the question that the Government should not take it lightly in future. The Standing Committee of Parliament and Lok Sabha should not be undermined on such vital financial matters which are linked with the economy of the nation and fighting the corruption of the nation played by these mischievous forces operating in the stock market and especially the foreign players.

**THE MINISTER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH):** Mr. Chairman, Sir, I am very grateful to all the hon. Members who have participated in the discussion. I will endeavour to respond to as many of the points as I can individually as also some points that spread over almost every intervention.

The one sentiment that runs across almost every intervention is that the route of Ordinance is not a desirable route, and that the Government must, wherever possible, without adopting it, come forward with the proper piece of legislation. I fully subscribe to that viewpoint. The Ordinance route is not a route that is adopted lightly. There is no intention whatsoever. Several hon. Members, almost every speaker, including the mover of the Resolution for disapproval of the SEBI Ordinance, Shri Basu Deb Acharia and hon. Shri Kirit Somaiya, said that the Standing Committee must not be neglected. It is not the intention of the Government, in any sense, to belittle or neglect the Standing Committee. Of course, whether Ordinance or otherwise, we have to come to Parliament and seek Parliament's approval. If the Ordinance route is adopted, it is only because of the exigencies of circumstances and the requirement is sometimes so to act urgently. We are not disrespectful of the Parliament. Certainly how can we be disrespectful of a child of Parliament, which is the Standing Committee?

The Standing Committee's deliberations have taken time, but then that is partly, I believe, of the nature of the evolving process of the Standing Committee. I do not want to go into the Ninth Lok Sabha and how the then Speaker of the Ninth Lok Sabha had involved me also in the part of the process of formation of Standing Committee. So, as somebody who contributed to the establishment in my own small way to the Standing Committee, it is certainly not our intention. We do feel that the Standing Committees should expedite their work and matters that are referred to the Standing Committees should not languish there for 12 months, 18 months or 24 months. But then, that is an individual difficulty, not a generic difficulty, and that is a subject matter. But the route of Ordinance is adopted because the circumstances compel the Government to adopt that path. Not doing so would involve considerable public harm, whether commercial or otherwise. That is why, it is adopted.

I wish to also state and give an assurance categorically here and now. I was summoned by the Joint Parliamentary Committee. I was summoned for consultations on the issue that the Joint Parliamentary Committee is currently considering. I have no difficulty in sharing with the House that I wish to give categorically an assurance to the House that whether on the SEBI Ordinance or on the Ordinance of the Unit Trust, which I perforce had to, whatever the Joint Parliamentary Committee recommends after its deliberations, we will adopt those recommendations, whichever is finally to be adopted, after those recommendations are considered by the House and the Government. Should there be any changes, amendments, alterations, improvements to be made, either in the SEBI Bill or any of the other Ordinances, of course, we will do it.

It would then become a command of Parliament and how can the Government not obey the command of Parliament? So, let there be absolutely no doubt in that regard.

I am mindful of the limitations of time. I wish to assure the hon. Mover of the Motion of Disapproval that the JPC recommendations of 1992-93 were given effect through amendments in the SEBI Act in 1995, which included amongst other things, regulation of FIs, venture capital funds, collective investment schemes and imposition of monetary penalties. His query was whether those recommendations of the JPC were incorporated; yes, they were.

About co-ordination amongst regulators, a high level committee under the Governor, RBI and consisting of the Finance Secretary and the Chairman, SEBI is in place, after the recommendations of the previous JPC. It meets periodically to cover these issues.

Hon. Member Shri A.C. Jos is not present here but I would briefly refer to issues raised by him because he took the trouble – being an hon. Member and a gentleman from the law – of going through each clause as it were and suggested this clause ought to have this provision and like suggestions. I wish to place on record this in regard to what he said about the clause on investigation. I would request him to please understand that the present Bill is an amendment of the parent Act. It does not eliminate the parent Act. The parent Act also contains powers for summoning of persons, production of books and inspection of books and registers. The proposed investigating authority would be appointed by the SEBI. As such, there would be sufficient safeguards. It would not be arbitrary.

In respect of clause 4, the words, 'information on record' would include all forms including electro-magnetic. As provided in clause 6, the reference to the Magistrate for search and seizure is necessary to avoid abuse of powers. It is in line with the Companies Act. The objective of clause 29 is to reduce delays and to avoid unnecessary litigation and so such a power is necessary.

The hon. Member Shri A.C. Jos and various other hon. Members have raised a point about the qualification of members. The original Act, I would like to clarify and state categorically already has provisions such as experience of law, finance, economics, accountancy, administration, etc. Therefore, it was not felt necessary that in the Amendment Bill it should again be repeated. माननीय सभापति महोदय, आपने भी कुछ आपत्तियां बताई थीं, मैं उस बारे में भी बताता हूँ। A number of hon. Members have expressed an apprehension about the enlarged membership from six to nine. I would like to assure that it would not be filled only with civil servants but it would take into account all the professions.

I think, on investor confidence, a point was made emphatically and forcefully by hon. Member Shri Kirit Somaiya. This is a very important aspect and the Bill does provide the powers to the SEBI to impound and retain proceeds or securities in respect of any transaction under investigation, to attach bank accounts and to direct persons or intermediaries not to alienate assets. This would help safeguard the interests of the small investors. Restoration of investor confidence is an aspect that a number of hon. Members including Shri Shriprakash Jaiswal have emphasised; and there is this provision here.

About unclaimed dividends, there is already an Investor Education and Protection Fund established by the Department of Company Affairs. Incidentally, the Department of Company Affairs is now a part of the Ministry of Finance.

The unclaimed amounts of dividends are deposited into this fund and utilised for this purpose. Giving authority to SEBI but with proper accountability is another point that hon. Shri Kirit Somaiya made. I wish to inform the hon. Member that SEBI is already accountable to Parliament through the Government. Of course, Shri Vijayendra Pal Singh Badnore also said that it should not go to the Parliament but come to the Parliament. It will be difficult to have a system whereby any body in the country goes directly to Parliament. The agency has to be the Executive, that being the Government. The Parliament can, of course, put up the Executive on any issue. Therefore, this is the method through which the accountability of SEBI is established.

Hon. Shri Moinul Hassan had spoken about members having qualification. I have covered that point. Then, the issue of corporatisation of stock exchanges was raised. I wish to inform the hon. Member that the National Stock Exchange, the largest in the country, is already a corporatised entity. SEBI has appointed Justice Kanya Committee on de-mutualisation and the report of Justice Kanya Committee has been submitted to SEBI. I have given an assurance that we will implement Justice Kanya Committee's recommendations and I hope to be able to report completion very shortly in that because de-mutualisation is important. De-mutualisation is having three separate activities on a stock exchange – trading, brokering and ownership. A number of brokerage houses combine all the three. They are brokers; they are traders; and they are also owners of the concern. This is in a very substantial manner and has, to an extent, resulted in misuse. Therefore, de-mutualisation is something that we will be promoting quite emphatically.

माननीय नवल किशोर जी अभी यहां नहीं हैं। उन्होंने भी अपनी कुछ शंकाएं रखी थीं। माननीय सभापति जी, जब आप सभापति की कुर्सी पर विद्यमान नहीं थे तो आपने भी अपनी जगह से कुछ टिप्पणियां कीं और कुछ मर्मस्पर्शी तथा कुछ निराशाजनक बातें भी कहीं। सभापति जी, मैं आपको आश्वस्त करता हूँ कि भूतकाल बीत गया, इंसान हर कदम पर सीखता है, इसलिए हमारा यह पूरा प्रयत्न रहेगा कि हम इस तरह से कार्य करें जिससे आपकी निराशा वाली बोली, आशा वाली बोली बन जाए। आपने पूछा कि सिक्योरिटीज के लिए हमने क्या कदम उठाए हैं? तो हमने सेबी बोर्ड का विस्तार कर दिया है, सिक्योरिटीज अप्लेट ट्रिब्यूनल बैठा दिया है, सेबी की पावर बढ़ा दी गयी है।

माननीय जायसवाल जी ने कुछ अच्छे सुझाव दिये हैं, मैं उनको आश्वस्त करता हूँ कि हम उनके सुझावों को बहुत गंभीरता से लेंगे। उनके सुझावों के पीछे उनके राजनैतिक जीवन का अनुभव झलकता है। हम निश्चित रूप से उनके सुझावों को गंभीरता से लेंगे।

मुझे एक-दो बातें और कहनी हैं। हमको जानकारी मिली है कि देश में कुछ गैर-कानूनी स्टॉक एक्सचेंज काम कर रहे हैं। उन पर भी सेबी की ओर से कदम उठा लिये गये हैं और उन कदमों के बाद जो भी कार्रवाई होगी, उस कार्रवाई की जानकारी मैं सदन को दूंगा।

Capital market's revival has been an issue that hon. Shri Vijayendra Pal Singh Badnore as also hon. Dr. Sengupta and a number of other Members spoke of.

There are essentially three broad components of restoration of the capital market. It is in that context that you recommended re-examining the possibility of *badla*. Now, firstly, we have to restore investor confidence in the capital market, and, secondly, we have to simultaneously develop the market itself. So, first is the investor confidence, second is the market development, and the third is taking of such fiscal steps as would promote the sentiment of investor, which should be seen as somewhat different to investor confidence.

We have taken any great number of steps in this regard about demutualisation of stock exchanges, central listing authority, screen-based trading of Government securities, also about moving towards T+1 rolling settlement and about establishing a turnover fee. We have moved away from *badla* to a different system altogether, which we felt was really more current, more in accord with the international system, to provide the necessary liquidity. As you know, we have just introduced derivatives in 29 select scrips and we have also promoted derivatives in indices.

With these two and having just introduced derivatives, we feel that if the Bill is now approved by Parliament, we will definitely be moving towards restoration of investor confidence.

Mr. Chairman, Sir, I am very grateful for all the attention and care and views that have been expressed. I take on board seriously the views that had been expressed, particularly reservations about Ordinances, which we share. We do it only when it is absolutely necessary.

With these words, I would request the hon. Mover of the Motion of Disapproval to not press his disapproval too hard. We have taken on board your disapproval. Therefore, now, let us proceed further with the Bill itself.

SHRI BASU DEB ACHARIA : Mr. Chairman, Sir, I am not still convinced by the reason given by the hon. Minister of Finance in regard to the urgency of promulgation of Ordinances. While moving my Motion, I have referred to a number of observations made by former Speakers. All these observations were in regard to promulgation of Ordinances just on the eve of a Session. These Ordinances were promulgated on 29<sup>th</sup> of October, two days before the House was summoned. I also referred to the Cabinet decision that the Winter Session would start from 18<sup>th</sup> of November. That was decided by the Cabinet, at least, ten days back. After the decision was taken to convene the Parliament, then suddenly and hurriedly, two Ordinances were promulgated on 29<sup>th</sup> November. On the very same day, two Ordinances were promulgated. This is quite unprecedented. I am a Member of this House for the last 22 years, but I have not seen two Ordinances being promulgated just two days before the commencement of the Session.

I have not seen such a thing happening in the last 22 years of my Parliamentary life. Again, I have already said that bringing in of this law now is a belated move on the part of the Government. The hon. Minister, while moving the Bill for consideration, had mentioned of a few weaknesses in the SEBI Act. The Government was aware of these weaknesses and those could have been removed long back, by bringing in such a legislation at an earlier date, by giving more teeth to SEBI. It is not so that the Government, all on a sudden, came to realise that the existing provisions in the Act are not sufficient enough to serve the purpose for which SEBI was formed as a Regulatory Authority. The hon. Minister must assure this House that the route of Ordinance would not be resorted to in the future. It is not as if it has been done once. Five Ordinances have been promulgated. We have not seen ever that five Ordinances being promulgated in a short time because all of them were of such an urgent nature.

Sir, the Standing Committee would now not have the opportunity to scrutinise the provisions of this Bill. What was the purpose of constituting the Standing Committees? He has assured that whatever recommendations would be made by the JPC would be incorporated. But such is not our experience. All the recommendations and the reports of the Standing Committees are almost unanimous. Of course, sometime there are dissent notes. But I think, 80 to 90 per cent of the reports are unanimous. The Standing Committees are represented by Members from almost all political parties. Shri Shivraj Patil mentioned that once in 1996 a report to this effect was obtained and it was found that 70 per cent of the recommendations of the Standing Committees were implemented. Now, after ten years we would have to get another such report to find out as to how many recommendations were made by the Standing Committees and how many recommendations were accepted and implemented. It is not only a question of the recommendations being accepted but it is a question of those being implemented by the Government. Our experience is that the recommendations are accepted but not implemented. I would like to request the hon. Finance Minister to assure this House that the Government would not take recourse to promulgation of Ordinances in future.

DR. NITISH SENGUPTA : I think, he has already assured it.

SHRI BASU DEB ACHARIA : No. He has not assured the House yet about it. He has only mentioned as to why he had to take recourse to this route of Ordinance. This is unprecedented. I have not seen such a thing happening in the last 22 years of my Parliamentary life. Two Ordinances were promulgated just two days before the House was summoned.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): It is done not in respect of ordinary matters but in respect of financial matters, and that too two days prior to the summoning of the House. It is unprecedented in the history of Parliament.

SHRI PRIYA RANJAN DASMUNSI : They are doing a lot of unprecedented things including this.

SHRI VARKALA RADHAKRISHNAN : If things go on like this, I assure the House that a day will come when the Finance Minister will lose his importance and even the annual Budget and the Demands for Grants will be passed without discussion, in the form of an Ordinance.

SHRI BIKRAM KESHARI DEO (KALAHANDI): In his speech, Shri Acharia quoted the ruling of former Speaker Shri Mavalankar but he did not quote what Prime Minister Jawaharlal Nehru had said in response to that.

SHRI BASU DEB ACHARIA : I have referred to what Pandit Jawaharlal Nehru said also.

SHRI BIKRAM KESHARI DEO : It was duly agreed by the hon. Finance Minister that an Ordinance is issued when there is an emergent need. Issuance of Ordinances is nothing new. It has been happening since 1950 through 1999.

श्री प्रियरंजन दासमुंशी : आपको भी मंत्रिमंडल में लिया जायेगा, अभी मंत्री जी को बोलने दें।

SHRI BASU DEB ACHARIA : Promulgation of Ordinances is not new. But promulgation of Ordinances just before the House is summoned is unprecedented. You go through the observation of Shri Mavalankar and also the observation of the Speaker of Seventh Lok Sabha in 1980. The hon. Speaker then reiterated that ordinarily Ordinances should not be promulgated on the eve of the Session even on urgent matters.

SHRI JASWANT SINGH: Ordinarily this should not be done. Ordinarily it will not be done. Ordinance is an extraordinary measure. Therefore, sometimes it will be taken recourse to.

DR. NITISH SENGUPTA : Mr. Mavalankar was not operating in a multiparty system.

SHRI BASU DEB ACHARIA : I would also like to know from the Minister whether the Department of Company Affairs had also been opposing this move because they wanted to scrutinise the Bill. Our impression is that it has been hurriedly done, that Cabinet meeting was held, from what we gather from the newspapers, just two days before the House was summoned. Shri Pramod Mahajan was aware, at least ten days prior to that, that the House would be summoned on the 18<sup>th</sup> of November. In spite of that, the Cabinet meeting was held and two Ordinances were cleared.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Sir, I am aware now that the Budget Session will start on 17<sup>th</sup> of February. That does not mean that an Ordinance cannot be issued. These are informal things, not Government decisions.

SHRI BASU DEB ACHARIA : Promulgating Ordinances just two days before the summoning of Session is unprecedented.

SHRI BIKRAM KESHARI DEO : This is a question of interests of the small investors. Keeping this in view, the hon. Member may withdraw his Resolution.

SHRI VARKALA RADHAKRISHNAN : The Standing Committee of Finance is there. The Government can bypass the Legislature but why is it bypassing the Standing Committee?

SHRI BASU DEB ACHARIA : The Minister should assure the House that the Government would not take recourse to Ordinances in future. If I get that assurance from the Minister of Finance, I will withdraw my Resolution.

SHRI VARKALA RADHAKRISHNAN : He cannot do that.

SHRI JASWANT SINGH: I want to settle this debate. I do not, in any sense, minimise the emphasis that the hon. Member has given.



**18.00 hrs.**

I am sure, given the experience that he has of parliamentary life, he would understand that no Government takes recourse to Ordinance unless absolutely necessary. And ordinarily, a Government will not take recourse to as our Government will not take recourse to ordinarily.

SHRI BASU DEB ACHARIA : They brought it two days before, just on the eve of the Session.

SHRI BIKRAM KESHARI DEO : What was done in 1975?...(*Interruptions*)

SHRI BASU DEB ACHARIA : Mr. Chairman, Sir, as the hon. Minister has assured that in future the Government will not take such recourse, I may be permitted to withdraw my Statutory Resolution.

MR. CHAIRMAN : Is it the pleasure of the House that the Statutory Resolution moved by Shri Basu Deb Acharia be withdrawn?

*The Statutory Resolution was, by leave, withdrawn.*

MR. CHAIRMAN: Now, the question is:

"That the Bill further to amend the Securities and Exchange Board of India Act, 1992, be taken into consideration. "

*The motion was adopted.*

MR. CHAIRMAN: The House will 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.*

*Clauses 3 to 5 were added to the Bill.*

**Clause 6 Insertion of new**

### **Sections 11C and 11D**

SHRI G.M. BANATWALLA (PONNANI): Sir, I beg to move:

Page 5, line 36,—

after "unless"

insert "there are reasonable grounds to believe that" (1)

MR. CHAIRMAN: I shall now put amendment No. 1 to clause 6 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment No. 1 was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 6 stand part of the Bill. "

*The motion was adopted.*

*Clause 6 was added to the Bill.*

*Clauses 7 to 16 were added to the Bill.*

**Clause 17 Insertion of new**

**Sections 15 HA and 15 HB**

SHRI G.M. BANATWALLA : I beg to move:

Page 8, line 23,--

for "liable to a penalty"

*substitute* "liable to be punished with imprisonment of either description for a term which may extend to ten years and a fine" (2)

MR. CHAIRMAN: I shall now put amendment No. 2 to clause 17 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment No. 2 was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 17 stand part of the Bill. "

*The motion was adopted.*

*Clause 17 was added to the Bill.*

*Clauses 18 to 27 were added to the Bill.*

**Clause 28 Amendment of Section 24**

SHRI G.M. BANATWALLA : I beg to move:

Page 10, lines 21 and 22,--

for "ten years, or with fine, which may extend to twenty-five crore rupees or with both"

*substitute* "ten years and with fine which may extend to twenty-five crore rupees." (3)

MR. CHAIRMAN: I shall now put amendment No. 3 to clause 28 moved by Shri G.M. Banatwalla to the vote of the House.

*The amendment No. 3 was put and negatived.*

MR. CHAIRMAN: The question is:

"That clause 28 stand part of the Bill. "

*The motion was adopted.*

*Clause 28 was added to the Bill.*

*Clauses 29 to 32 were added to the Bill.*

*Clause 1, the Enacting formula and the Long Title were added to the Bill.*

SHRI JASWANT SINGH: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is:

"That the Bill be passed."

*The motion was adopted.*

**18.06 hrs.**

***The Lok Sabha then adjourned till Eleven of the Clock  
on Thursday, November 28, 2002/Agrahayana 7, 1924 (Saka).***

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