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**14.33 hrs.**

**Title:** Further discussion on the Freedom of Information Bill, 2000, moved by Shrimati Vasundhara Raje on 10.8.2000 (Bill passed.)

MR. DEPUTY-SPEAKER: Now, the House will take up item No. 13. Last time, Shri Pawan Kumar Bansal was on his legs and he was to continue his speech today. Since he is not here, I now give the floor to Shri Ramesh Chennithala.

SHRI RAMESH CHENNITHALA (MAVELIKARA): Mr. Deputy-Speaker, Sir, I rise to support this Bill. It is widely recognised that openness, accessibility and information to people about the Government's functioning are vital components of our democracy. We are living in a free society. In a free society, a legislation of this nature is highly welcome step. In a free society, we progressively lift the veil of secrecy, and people's participation in Government's functioning is very much needed now-a-days. A meaningful participation in major areas affecting the lives of millions and millions of people is very much necessary. Accountability can be ensured only through accessibility to information and knowledge. Now-a-days, we are living in a matured democratic society. In a matured democratic society, it is the duty of each and every Government institution to part with the information and knowledge so that people have access to it.

It is because it affects the life of the individual citizens. More so, by allowing such kind of information to flow to the public at large, we can curb corrupt practices. That is the most important thing. Today, we not only hear but also witness a lot of cases of corruption in the various Departments of the Government. Every now and then a hue and cry is raised about the functioning of the Government Departments. A lot of corruption charges are levelled against responsible people in the Government. So, if people are allowed to have an access to information, then such things could be curtailed.

Sir, this Bill is in pursuance of article 19 of the Constitution that guarantees freedom of expression and freedom of speech etc. and also in pursuance of the 19<sup>th</sup> Universal Declaration of Human Rights. The Chief Ministers unanimously recommended for this Bill in the conference of the Chief Ministers.

Sir, effective and responsive Governments are a necessity in today's world. It is because the mankind is progressing and also the concept of free society is existing in today's world. Governments must be more transparent. Governments must be more accountable to the public. Such a Bill which envisages openness and transparency would give more strength to the society and mankind at large. So, if we can ensure free flow of information and make that information available to the public at large, then that would result in ensuring a more responsive Government in the present situation.

Sir, there is a world-wide trend, in almost all democratic countries in the world, to have right to information. The United States of America passed a legislation in this regard in 1966. Countries like Japan, Ireland, The Netherlands, Australia, Canada, France, U.K, New Zealand and South Africa have enacted similar legislation to enforce transparency. In Australia, the Freedom of information Act, 1982 gives its citizens the right to see personal files primarily held by Social Security and Tax Departments. The South African countries also are following this path. In our country, the States of Tamil Nadu and Goa have already enacted such a legislation. The States of Rajasthan, Karnataka and Maharashtra are also in process of enacting such legislations.

Sir, there has been even a judicial recognition to right to information. Learned judges, at various point of time, in their judgement have mentioned about this point. In the State of Uttar Pradesh *versus* the Raj Narain case it was held that the privilege of the State could not be a defence against the mandate of article 19 (i) (a). It was held by Mr. J. Mathew and I quote:

"In a Government responsibility like ours where all agents of public must be responsible for their conduct, there could be but a few secrets. People of this country have the right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction. The concept of freedom of speech, though not absolute, is a factor which should make wary when a secrecy is claimed for transaction which can, at any rate, have no repercussion on public security."

In other illustrious judgements, for example, in the S P Gupta *versus* the Union of India, the Indian Express Newspapers Private Limited *versus* the Union of India; and in the Life Insurance Corporation of India *versus* Manubhai D Shah, the importance of right to information has been clearly stated and emphasised.

These important judgements had laid greater stress on the need of right to information to the citizens of our country. This Bill contains certain suggestions given by the Expert Committee. The Departmentally-Related Standing Committee on Home Affairs has also examined this very carefully and gave certain suggestions. The Government should take these very important suggestions into consideration.

First of all, it would be appropriate to call this legislation Right to Information Bill instead of Freedom of Information Bill. I do not know why the Government is hesitating in calling it Right to Information Bill. The applicability of the Act is limited to only the citizens of the country. Why should it not be extended to the non-citizens also. This will only make it more open and more transparent. Once certain information is made accessible to the citizens of the country, there is no point in differentiating between the citizens and non-citizens. The Government should clarify this point also.

The Bill should provide for delegation of the authority of the Public Information Officer. The ultimate responsibility to ensure adherence to the provisions of the Bill should be vested in the Head of each public authority. I do not think the Government would have any reservation on this count.

The Bill must provide compulsory and mandatory disclosure of information that relates to health, safety, environment and human rights. Public is aware of all these things. It is the bounden duty of every democratically-elected Government to ensure these basic necessities of the people. So, this should also be incorporated in this Bill.

The Bill should clearly state that where information sought is regarding the life and liberty of a person, the same should be provided within 24 to 48 hours.

Human rights are being violated by the police and paramilitary forces. Cases of violation of human rights have been reported from a cross section of the society in different parts of the country. Such violations can be stopped only by taking stringent measures. In this context, information regarding life and liberty of a person acquires greater significance. There have been instances of people being taken in custody and not being presented before the courts or the appropriate authority even after the expiry of 24 hours. That is a reality. That is what is happening in almost all areas. So, this suggestion has to be incorporated to enforce the human rights as well as the liberty and the protection of the life of an individual.

The Bill should clearly provide that information that cannot be denied to MPs and MLAs should not be denied to the public. Whatever information the MPs and MLAs are eligible to get should be given to the public also. Of course, MLAs and MPs do have privileges and they have certain rights. At the same time, when you are opening up more avenues of accessibility to information, the public should also have a right to know the information that is provided to their MPs and MLAs.

Clause 8 (2) provides for a period of 25 years for releasing the information. This period is very long. I think it should be reduced to 15 years. There should be a penalty for giving faulty and misleading information.

That deterrent is very much needed here because there is always a tendency to mislead people. To curb that tendency, I think, rigorous punishment should be given to the persons who are trying to mislead or who are trying to give part with faulty information.

Independent appeals mechanism may also be provided.

Similarly, the local bodies may be recognised as a competent authority for effective implementation of this Act. As per our Constitution, now the *Panchayati Raj* system is there which is working very effectively. More powers are given to the local bodies. They are self-sufficient. So, this kind of an Act can be implemented more efficiently and more effectively by the *Panchayati Raj* system. So, I reiterate that the local bodies may be recognised as a competitive authority for the effective implementation of this Act.

Sir, I do not want to take much of the time of the House. This Bill is the need of the hour. It is a very progressive piece of legislation. This will definitely decrease the corrupt practice which is coming up in an alarming proportion and decaying our democratic system. For the effective implementation of this Act, I think, the Government should give more publicity. Our awareness campaign should be strengthened so that the public should know that 'here is an Act through which everybody can have access to information and knowledge.'

With these few words, I conclude.

SHRI HANNAN MOLLAH (ULUBERIA): Sir, who is the Minister in charge of this Bill?...(*Interruptions*)

MR. DEPUTY-SPEAKER: He is there.

SHRI HANNAN MOLLAH : Nobody is there...(Interruptions)

SHRI RAMESH CHENNITHALA : Sir, the concerned Minister is not present. She should have been present here.

MR. DEPUTY-SPEAKER: Dr. Satyanarayan Jatiya is there and he is taking note of each and everything.

...(Interruptions)

SHRI HANNAN MOLLAH : Sir, it is a very serious matter. The concerned Minister should have been present here.

MR. DEPUTY-SPEAKER: Shrimati Vasundhara Rajee had taken my permission. I had granted her the permission.

Dr. Jatiya is taking note of all the points being raised.

SHRI SOMNATH CHATTERJEE (BOLPUR): I think, he will put it poetically! ...(Interruptions)

**श्री रतन लाल कटारिया (अम्बाला) :** उपाध्यक्ष महोदय, मैं एनडीए सरकार को यह बिल लाने के लिए बधाई देना चाहूंगा। उन्होंने अपने नेशनल एजेंडा में वायदा किया था कि अगर हमारी सरकार बनती है तो हम ट्रांसपेरेंसी ऐंड डिसिजन मेकिंग प्रोसेस के अन्दर तेजी लाने के लिए ऐसा बिल लाएंगे, जिस के अन्दर जनता को सरकार के बारे में महत्वपूर्ण फैसले जानने की पूरी स्वतंत्रता होगी। मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ।

उपाध्यक्ष महोदय, यद्यपि देश ने जो संविधान अपनाया, उसकी धारा 19 क्लॉज (1) में जो फंडामेंटल राइट्स हैं, उसमें फ्रीडम ऑफ स्पीच ऐंड एक्सप्रेशन में कहा गया है कि देश के प्रत्येक व्यक्ति को अपने विचार रखने का पूरा हक होगा। इसके साथ-साथ धारा 19 क्लॉज (2) में इस बात का प्रावधान किया गया था कि कोई भी सूचना जो देश की एकता और अखंडता के लिए खतरनाक हो सकती है, उस पर अंकुश जारी रहेगा। धीरे-धीरे और जैसे-जैसे सूचना टेक्नॉलोजी का जमाना आगे बढ़ा और दुनिया गेंद की तरह छोटी सी बनी, दुनिया के बहुत से देशों ने एक के बाद एक अपने देशों में इस प्रकार के फ्रीडम ऑफ इनफॉर्मेशन से संबंधित बिल को पास किया। अमेरिका में इस प्रकार का प्रयत्न 1966 में हुआ। उसके बाद एक और बिल अमेरिका के अन्दर 1974 में फ्रीडम ऑफ इनफॉर्मेशन के बारे में लाया गया।

यद्यपि इंग्लैंड के अंदर इस प्रकार के बिल का स्टैचुटरी प्रोवीजन नहीं है, वहां पार्लियामेंटरी डेमोक्रेसी की कन्वेंशन अपने आप में है और उन्होंने कोड ऑफ कंडक्ट अपनाया हुआ है, जिसके अंतर्गत उन्होंने नेशनल सिक्यूरिटी और कांफिडेंशिएलिटी के मैटर्स को छोड़कर अन्य बातों को जनता के बीच में रखने की बात कही गई है। इस क्षेत्र में दुनिया में स्वीडन ने 1776 में सब से पहले कदम उठाया और वहां की जनता को राइट ऑफ इनफॉर्मेशन का हक दिया। इसी प्रकार फ्रांस ने 1978 व 1979 में, आस्ट्रेलिया व कनाडा ने 1980 व 1982 में और न्यूजीलैंड में 1982 में इस प्रकार के बिल लाये गये जिनसे वहां की जनता को राइट ऑफ इनफॉर्मेशन का हक मिला। भारतवा में पहली बार ज्युडिशियरी के क्षेत्र में इस प्रकार की जरूरत महसूस की गई। स्टेट ऑफ उत्तर प्रदेश वर्सेस राज नारायण के मामले में पहली बार ऐसा फैसला आया जिसके अंतर्गत जस्टिस मैथ्यूस ने कहा :

"In a Government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction. The concept of freedom of speech though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion of public scrutiny."

इसी तरह इंडियन एक्सप्रेस के मामले में सुप्रीम कोर्ट का एक बहुत ही महत्वपूर्ण फैसला आया, जिसके अंतर्गत कहा गया :

"The Constitutional guarantee of the freedom of speech and expression is not so much for the benefit of the Press as it is for the benefit of the public. The people have a right to be informed of the developments that take place in a democratic process and the Press plays a vital role in disseminating this information."

इस प्रकार एक के बाद एक ऐसा फैसले सुप्रीम कोर्ट और अन्य कोर्ट्स के आये जिसके अंतर्गत यह कहा गया कि भारत के अंदर जनता को अधिक से अधिक जानकारी प्रदान करने के लिये ऐसे बिलों की आवश्यकता है।

उपाध्यक्ष महोदय, स्टैंडिंग कमेटी में इस बिल पर चर्चा हो चुकी है और उसकी कुछ सिफारिशें इस बारे में आई हैं। हम समझते हैं कि जो सूचनायें देश का एम.पी. या एम.एल.ए. प्राप्त कर सकता है और जो सूचनायें लोक सभा या राज्य विधान सभा के पटल पर रखी जा सकती हैं, उन सूचनाओं को प्राप्त करने का हक इस देश की जनता को होना चाहिये। आज देश का प्रत्येक नागरिक प्रजातंत्र में विश्वास रखता हुआ हर पांच साल में जब अपने मत का प्रयोग करता है, उस समय प्रत्येक राजनैतिक दल उससे इस बात का वायदा करता है कि अगर उन्हें चुनकर भेजा जाता है तो वे सार्वजनिक जीवन में अपनी पालिसीज को देश की जनता के हित में,

उन सब के सामने रखेगा और देश की जनता को पारदर्शी और स्वस्थ सरकार प्रदान करेगा।

आज उसी पर चलते हुए इस प्रकार का बिल लाया गया है, जिसके अंतर्गत ऐसे प्रावधान किये गये हैं कि अगर किसी आम नागरिक को कोई भी कांस्टीट्यूशनल अथॉरिटी इंफॉर्मेशन देने से इनकार करती है तो उस नागरिक को पूरा हक होगा कि वह उस मामले को लेकर कोर्ट में जा सकता है। इतना ही नहीं उसे उस फैसले के विरुद्ध अपील करने का भी हक होगा। यदि उस अपील पर भी कार्यवाही नहीं होती है तो उसकी जो एप्रोपेरिएट अथॉरिटी है, उसके अंतर्गत दूसरी अपील में भी जाने का उसे पूरा हक होगा। आज इसके बारे में कुछ आशंकाएं जाहिर की जा रही हैं कि क्या एक मिनिस्टर तथा भारत सरकार के सैक्रेटरी के मध्य जो आदान-प्रदान होता है, विचार-विमर्श होता है, क्या उस फाइल की सीक्रेसी को जनता के बीच में जाहिर किया जा सकता है। लेकिन आज ऐसा वक्त आ गया है, आज इंफॉर्मेशन टेक्नोलॉजी का जमाना है। आज हम अपने कंप्यूटर पर वैबसाइट के माध्यम से सारी दुनिया के बारे में जानकारी रखते हैं। वहीं इस प्रकार की जानकारियों में जो जानकारियां देश की सॉवरेनिटी के मामले से संबंधित न हों या जो देश के डिफेंस सिस्टम से संबंधित न हो और जिन बातों को भारत सरकार समझती है कि ये नेशनल इंटरैस्ट के टॉप सीक्रेट्स हैं, ऐसी तमाम बातों को छोड़कर जो रोजाना सामान्य जीवन से संबंधित है, जिनसे आम नागरिक का जीवन प्रभावित होता है, उन सब बातों का जनता तक पहुंचना एक आम बात हो गई है।

उपाध्यक्ष महोदय, मैं इस बिल का समर्थन करता हूँ और मुझे पूर्ण आशा है कि इस बिल के पास होने से देश के अंदर इंफॉर्मेशन टेक्नोलॉजी के क्षेत्र में जो क्रांति आ रही है, उसके साथ एक और क्रांति आयेगी और जनता को यह जानने का पूरा हक प्राप्त होगा कि देश की विभिन्न कांस्टीट्यूशनल एजेन्सीज जनता के हित में किस प्रकार से कार्य कर रही हैं। एक बार फिर से मैं इस बिल का समर्थन करते हुए अपनी बात समाप्त करता हूँ।

**SHRI SOMNATH CHATTERJEE (BOLPUR):** Mr. Deputy Speaker, Sir, nobody can have any grievance or question about what perceives to be the objective of the Bill but a close study of the Bill will show that it is more for public consumption than for public enforcement.

Right to information has been construed by the Supreme Court to be inherent in article 19 of our Constitution. Therefore, to get information is a fundamental right of the citizens of this country. But there has been no machinery for it. The machinery has to be provided. What stood in the way and still stands in the way is the Official Secrets Act and some of the provisions of some other Acts, which debar the citizens from acquiring information or rather empower the authority to withhold information on the plea of security, safety, official secrets, etc.

**15.00 hrs.**

Sir, in the year 1982, the Mathew Committee gave certain recommendations. It advocated for the amendment of the Official Secrets Act. But nothing was done. The Press Council of India had prepared a draft Bill which did not make much progress. The United Front Government came into being in December 1989. In January, 1990, the then Prime Minister, Shri Vishwanath Pratap Singh stated:

"For increasing people's control and to curb corruption, the Government will have to increase access to information. If the Governments function in full public view, the wrong doings will be greatly minimised. The Official Secrets Act will be amended and we will make the functioning of the Government more transparent. Secrecy will be maintained only where the interests of national security and foreign relations so warrant. Free flow of information is a pre-requisite for democracy. The right to information will be enshrined in our Constitution. Doordarshan and AIR will be given autonomy."

Sir, the UF Government had also constituted a Committee under the Chairmanship of Shri H.D. Shourie. This Committee consisted of a number of experienced bureaucrats, and senior bureaucrats ultimately produced a draft. The present Bill seems to have been framed on that Shourie draft.

Sir, if you kindly spare a little time to go through some of these provisions, you would find that Clause 3 of the Bill says:

"Subject to the provisions of this Act, all citizens shall have freedom of information."

The freedom of information has been defined in the Bill. It means:

"(c) 'freedom of information' means the right to obtain information from any public authority by means of, -

(i) inspection, taking of extracts and notes;

(ii) certified copies of any records of such public authority;

(iii) diskettes, floppies or in any other electronic mode or through print-outs where such information is stored in a computer or in any other device; "

Sir, the word 'information' has been defined as follows:

"(d) 'information' means any material in any form relating to the administration, operations or decisions of a public authority;"



Now, who is a 'public authority'? The Bill says:

"(f) 'public authority' means any authority or body established or constituted, -

(i) by or under the Constitution;

(ii) by any law made by the appropriate Government,

and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government; "

Now, the duties of a public authority have been mentioned in Clause 4 which says:

"(a) maintain all its records, in such manner and form as is consistent with its operational requirements duly catalogued and indexed;

(b) publish at such intervals as may be prescribed by the appropriate Government or competent authority, -"

It says, all the information which anybody needs. It would publish all relevant facts and give reasons for its decision which means 'speaking orders'. The Clause 4(e) says:

"Before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it"

Sir, if the public authority carries out the duties imposed on it under Clause 4, nobody will need any information because it is its duty to give all the information initially. But most significantly, there is no provision of any penalty or any such thing in the Bill for the public authority for not doing its duty.

It is totally silent. I am showing the weaknesses in the Bill, although I am welcoming whatever is there. Maybe, public will have a little courage to ask for information now. But there is no penalty provided, subject to correction. The hon. Minister – *de jure* or *de facto*, I do not know – dealing with the Bill may clarify the position.

Now what can happen under this law? There is a provision for making a request for information. If the request is not acceded to, then there can be an appeal. To whom do you appeal? It says:

"Any person aggrieved by the decision of the Public Information Officer, may, within three days of receipt of such decision prefer an appeal to such authority as may be prescribed."

It may be a bureaucrat – a Secretary or an Additional Secretary. If it is judicial, as you know, it will all be time-consuming. Then, a second appeal is provided to the Central Government or the State Government or the competent authority, as the case may be. Therefore, if the public authority fails to discharge its duty, then the Public Information Officer may be approached to give the information. One Public Information Officer will be appointed in every State. If he does not give it, then another appeal. It is like 'from frying pan to fire'. These are the weaknesses. Probably, this Government cannot be more revolutionary. Revolution is anathema to them. Therefore, they can only provide this kind of a halting, public-confusing legislation. Well, what can be done? At least this much has been done.

There are so many exemptions. There is a long list of information which cannot be disclosed. It says:

"Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, security of State, strategic information"

These are all usual things. If you go through clause 8, it exempts disclosure of information more than it permits. I hope public organisations would be more strident in their demand for disclosure. Supposing a decision to disinvest a company is taken surreptitiously for reasons other than national interest by the Cabinet, then nobody has a right to ask for information from the Cabinet. Even information regarding a disinvestment proposal cannot be obtained under this law. We have known how Centaur Hotel case has been handled. Nobody knows what was the over-the-table and what was the under-the-table deal.

The minutes, records of advice, including legal advice or opinion also cannot be disclosed. Why not? It is a peculiar thing. Here, we have got an instance in this country where the Attorney-General changed his opinion with regard to telecom revenue sharing. How was it changed? Why was it changed? What are the reasons given for this act? Nobody knows anything about it till today. We had objected to this. But under this exemption clause nobody is entitled to that information.

Then it says:

"Trade or commercial secrets projected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority."

What are the trade and commercial secrets of the Union Government or the State Governments, which cannot be disclosed to the common people of this country? These are all rigmaroles, trying to hoodwink the people.

As I said, I am not opposing this Bill, as half a step forward is half a step forward. It is a beginning. It is more for public consumption than for public information. Centre-State relations getting affected and things like this are just pleas. Therefore, transparency is tabooed.

Do not talk of transparency. After you scrupulously apply the exemption clause 8, what remains for the people to know which they cannot know after making five or six visits? Maybe, by greasing the palms of somebody, they can get it.

Then the question of third party information comes. Notice has to be given. It is the proposed amendment of the hon. Minister. I hope the *de facto* Minister has been given a copy of that amendment, *de jure* Minister is not available. It is said that 25 days notice has to be given. Then he will have 30 or 60 days and then he will have another 25 or 30 days. Like this, four or five or six months have gone only to find out whether information is available or not. Then comes the appeal and the second appeal. I do not wish to give an impression that we are against disclosure of information.

I wish to make two or three points very seriously. One aspect which is eating the vitals of our country's economy particularly is corruption. It is no secret. Can any information be obtained which will expose corruption? All of them can be covered by the exemption clause 8.

Everybody says two things. Even the BJP manifesto says it. I do not know whether anybody reads it or not, namely, to stop or minimise corruption and for transparency, right to information is necessary. How would you stop corruption under this? Not a single thing is there which cannot be covered by this exemption clause. And who is the Public Information Officer? What will be his status and qualifications? From which service will he be selected? That is very important. He will be the deciding authority. Who will be the appellate authority? We find that in some of the important legislations which are coming before us - and we find this in our Committees also - many important provisions of the Bill are provided but are to be decided by rules to be framed. And those rules are never available alongwith the Bill. Therefore, we concede the power to the Government. Then rules will be made. One day, the hon. Minister will stand up and say that he lays the rules or the papers on the Table. Who reads them and when will they be available? It is never done although the Committee on Subordinate Legislation prescribed or recommended that draft rules should also be circulated alongwith the Bill. You are the Chairman, but you cannot enforce it. You know what it is. There is no power, there is only talking and helping them. (Interruptions)

SHRI P.H. PANDIAN (TIRUNELVELI): In a certain legislation, we have directed the Government to enforce the rule. (Interruptions)

SHRI SOMNATH CHATTERJEE : But they are not doing it. You catch hold of them now, if you have the courage and if you get clearance from Chennai! .....(Interruptions) One or two organisations may derive benefit if they are very articulate or if they are very persistent. One is the media. They can get more direct information unless they come under the exemption clause and if the media is alert. Generally, our media is alert. Some NGOs are well meaning and trying to give benefits to the people of the country but some are self-appointed benefactors of the people. They are also there.

Along with them, who will get the best benefit? The business and commercial people will get the information from the Government -- because the information is with the Government -- with regard to the activities of their business rivals. I do not know whether rules can protect it.

Another greatest weakness of this Bill is that right to information is restricted to public authorities. Now-a-days, almost all the things are sold to private concerns. Now, even armaments are being manufactured by private concerns. All the big profitable units are being sold to private concerns. You cannot get any information from them. The BALCO has been sold. You cannot get any information about BALCO. If NALCO is sold, then NALCO will be

beyond us. Everything is being privatised. Along with that, information will also be privatised. It would be outside the scope of public authorities' obligation. Therefore, they have virtually become the owners of assets and properties of this country. I am not objecting to it *per se*. Now it will be trumpeted that the public will be able to find out information, there will be transparency, corruption will go, etc. The Prime Minister, Shri Atal Bihari Vajpayee has said that. It will be said that he has fulfilled a great promise made in the election manifesto. Shri Pandian, have you read it? You are supporting them.

SHRI P.H. PANDIAN : We are not supporting them.

SHRI SOMNATH CHATTERJEE : Are you not supporting them?

SHRI P.H. PANDIAN : Only on issues we are supporting them. When the issues are in favour of the people, then we support them. We support on issues.

SHRI SOMNATH CHATTERJEE : Recently, all their issues were acceptable to you.

Therefore, this is the danger. This is another great weakness of this Bill. Giant private organisations are totally beyond the scope of this Bill. Shipping Corporation of India is in the list of Shri Shourie. Shri Goel is a good friend, who is trying to help the shipping industry. Whether he agrees or does not agree, whether he likes it or not, it will go out of his control.

SHRI P.H. PANDIAN : In the case of Neyveli Lignite Corporation, we are opposing privatisation.

SHRI SOMNATH CHATTERJEE : The principle behind this objective is good. The objective of this Bill is good. But this Government's intentions are not good. Therefore, the amendments that have been brought will further strengthen the bureaucracy in refusing information to the common people. We have so openly and so enthusiastically supported this measure as if all the problems of the people will be solved. No, unfortunately, it will not solve their problems. But some progress is there. At least some new posts will be created, like Public Information Officer. Somebody will get some promotion etc. Appellate authorities will be constituted. They can purchase some chairs and tables. Office rooms will be taken...*(Interruptions)* I do not know whether lawyers will be allowed or not. With Shri Arun Jaitley as spokesman of this Party, you may get the lawyers in it. This is only till Gujarat elections. After that he will be fused. At least, some beginning is there. I am not opposing it; I am only saying that people have to be more alert and they have to fight for this.

If it is a fundamental right as the Apex Court, the highest Court of this country has repeatedly held, then it should be a meaningful right which can be exercised by the common people in a manner or method which is available to them easily. It would not create a situation where it becomes only a paper right.

With those observations, I do not oppose this Bill.

MR. DEPUTY-SPEAKER: With those observation, you support this Bill! Is it not so?

SHRI P.H. PANDIAN : Shri Somnath Chatterjee, you are also like us in supporting it...*(Interruptions)*

SHRI BHARTRUHARI MAHTAB (CUTTACK): Sir, I thank you very much for giving me this opportunity.

I stand here to support the Bill which has been under consideration for quite a long time. This is being deliberated for the last many years.

### **15.21 hrs (Shri P.H. Pandian *in the Chair*)**

As has been said by my predecessor, the hon. Member Shri Somnath Chatterjee, a half-step has been made. But that step is, of course, in the right direction. I would call it a small step which is in the right direction. Invariably, all right thinking citizens of this country will support the attempt that is being made by our Government.

Discussions have been held. When we are discussing the Freedom of Information Bill, 2000 – or 2002 for which an amendment has been moved – we should also discuss about the Acts enacted earlier...*(Interruptions)* Shri Sahu has left the House. I come from a profession which has always sought to get information from the establishment. Shri Sahu was in service. Because of our friendship, we could gather some information - sometimes it was over the table and sometimes by the side of the table and not under the table. But it is because of the personal relations that the media is to get information from the establishment. The establishment is guided by a number of Acts and Rules. That was their constraint.

The most important Act was the Official Secrets Act which was enacted in 1889. The present Official Secrets Act, which is enforced even today in this country, was enacted in 1923. Specifically, there are three Sections. Section 3 of the Act deals with penalty for spying for purposes prejudicial to the safety or interest of the State. That was one

of the main clause by which a number of Freedom Fighters were put behind the bars during the struggle for Freedom. Section 5 provides penalties for wrongful communication of any Official Secrets Act.

I would like to draw the attention of this House to the fact that it is a matter of history that a letter first came into the hands of an eminent Congress leader in 1942 just before the Congress Working Committee sat in Bombay in the Gowalia Tank Maidan before that famous Quit India Resolution was moved on the evening of 8<sup>th</sup> August. Before that, another meeting of the Congress Working Committee was held in Wardha. In-between that period, a secret letter written by the then Governor-General to different Governors of respective States was handed over to Mahatma Gandhi at Bombay.

It was only when Gandhiji changed his decision. It is all part of the history. But that was the main reason why this Section 5 was imposed on two major leaders of our State, Orissa. One was Shrimati Malatti Choudhury who later became a Member of the Constituent Assembly and the other was Shri Surendra Nath Dwivedi who was in the Opposition for quite a long time, till 1971. They were prosecuted under this section of the Official Secrets Act.

Sir, there is another section, Section 14, which empowers the courts to exclude all or any portion of the proceedings before it, if the court feels that publication of any evidence would be prejudicial to the safety of the State. I have little hesitation relating to this Section.

Another aspect is that of the Central Civil Services (Conduct) Rules, 1964. Here, the Manual of Office Procedure provides:

"Only Ministers, Secretaries or other officers specifically authorised by the Minister may give information or be accessible to the representatives of the Press. Any other officer, if approached by a representative of the Press, should refer him to the Principal Information Officer of the Government of India."

This is how the system works and we want improvement through this Bill.

Then, there is the Indian Evidence Act, 1872. Section 124 of the Indian Evidence Act says that no public officer shall be compelled to disclose communications made to him in official confidence, if he considers that the public interest would suffer from the disclosure. So, when Shri Anadi Sahu was in service, he had concealed a number of things according to his own sweet will; so do many other persons who represent the establishment. Gradually, the Press Law Inquiry Committee was constituted in 1948, the Press Commission was established in 1954, the Law Commission was constituted in 1971, a Special Study Group was set up in 1977 and then the Mathew Commission was also set up, as my predecessor has just mentioned. Later on, it was in 1997, as was mentioned by Shri Ramesh Chennithala during the course of his speech in this discussion, that a consensus was reached in the Chief Ministers' Conference and after that a Working Group chaired by no less a person than Shri H.D. Shourie prepared a Working Paper. Subsequently, the Group of Ministers went into the Draft Bill and ultimately we have this Bill before us now.

Sir, the basic idea is to enact a law on right to information and this has been recognised unanimously by the Chief Ministers' Conference and by the Standing Committee on Home Affairs. The trend today, for the last 20 to 25 years, throughout the world in all vibrant parliamentary democratic systems of governance is to have a Government which is more transparent and accountable.

Today, this Government has taken a small step. There is much more to be done. As students of under-graduate colleges, we all studied in our textbook of Political Science that democracy is no longer confined to a system of governance. Today, democracy has become more vibrant. It is becoming more vibrant if there is more participation of people. With the participation of people, as was conceived earlier, only the people had the power to vote. They become passive later on till the moment comes again after end of the term, and they will be asked to come and vote. That was the prevalent system. But now it has changed. Demand is for more participation, interaction.

But I would like to remind this House that it was in 1974 when '*Nav Nirman*' call was given by Lok Nayak Jai Prakash Narain. What was the call of the students of Gujarat during that time? Today, of course, Gujarat is being discussed in a different context. But what was the call during that period? The call was that once we elected a representative, we should have the power to recall him back. Shri Jai Prakash Narain led that agitation in which Shri Morarji Desai was also a participant. A number of people, crossing the party lines, joined that movement. That had its repercussion in Bihar from that period till the Emergency came. We know what happened during the Emergency. But during that period, the whole world was changing in most of the democratic countries. A change occurred in the United States of America. The first amendment to their Constitution was made some 200 years back. That was also giving the Freedom of Speech and the Freedom of Press. That was the first amendment to the Constitution of the USA. But the Freedom of Information Act came into existence in 1966. The Act was further amended in 1974. The Electronic Freedom of Information (Amendment) Act came much later - in the 90s. Similarly,



in the United Kingdom, they have a regulation. It is a non-statutory code. But in Sweden, as has been mentioned by the hon. Member from Ambala, it has granted Right to Information since 1766. France has enacted this Right to Information since July, 1978 while commemorating 200 years of the French Revolution. In Australia, it happened in 1982. In Canada, the Access to Information Act was enacted in 1980. The Official Information Act came into existence in England in 1982. These are all developed democracies. Similarly, the developing countries, like South Africa and Malaysia, have also got this type of Act.

The position in India, as has been said, is that in Rajasthan and Tamil Nadu and a few number of other States, they have this type of law. They have made certain rules. But I would like to draw your attention to a pronouncement given by Justice Bhagwati. That was practically a clarion call. He had said:

"Disclosure of information in regard to functioning of the Government must be the rule and secrecy an exception."

I say this because there is a small beginning today and yet a big leap for Indian democracy.

At the same time, I would say, we need more addition and correction. It is because in the very first page of the Bill, it says: "This Act extends to the whole of India, except the State of Jammu & Kashmir."

Should I elaborate that this Act is a small step? We have to make more strides that 'except that State' line has to go at some given point of time. A beginning has been made this year by successfully having our parliamentary democracy proving itself a success. Not only our country, but throughout the world everybody praised for having a vibrant election. At the same time, we would like to have all laws enforceable in the rest of the country to be enforced in that State. In that respect, I would also like to state that there is an amendment given, as has been mentioned, that these are the Intelligence and Security organisations established by the Central Government, which are exempted and in that too, the last one, that is, the Special Branch Lakshdweep Police.

I want to understand why this is there. Why is it exempted? The Police as such has a very limited role to play. Special Branch, of course, has its jurisdiction in specific areas.

MR. CHAIRMAN: Please conclude now. Your Party's time is three minutes and you have taken 15 minutes.

SHRI BHARTRUHARI MAHTAB : It is because of you, Sir.

MR. CHAIRMAN: Kindly conclude now.

SHRI BHARTRUHARI MAHTAB: I would conclude with these words that as the Government proposes to deal with all these subjects in a phased manner, I would also like to know from the Government that the other Acts, like the Official Secrets Act, the Evidence Act, the Act which governs Civil Servants, etc. should also be looked after. As the objective of this Bill is to have a suitable, honest, transparent and efficient governance, I support this Bill.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Thank you Mr. Chairman Sir. I rise to support this Bill on behalf of the Indian National Congress. After careful study in the Standing Committee, this Bill is brought back again to this House, after it was introduced earlier.

Mr. Chairman Sir, most of the speakers agree with the point that it is a new beginning, if not, at least a step forward. When a Standing Committee of the Parliament is called upon to deliver on a particular legislation, it does not act on political lines; it acts on the collective wisdom of the House after careful scrutiny of each aspect of the legislation.

I was more reading the report of the Standing Committee than the respective clauses of the Bill, and I am sorry to say that the major observations of the Standing Committee, as has been stated in the Report and as has been narrated in clause by clause consideration, especially in clauses 8 and 9, unfortunately, did not get support from the Ministry and the Government. This is why I object here.

A Bill like Freedom of Information is not merely a piece of legislation, it is vitally linked, besides the Bill, to article 19 of the Constitution of India and the pronouncement of the Supreme Court also in discharging all our obligations in the most transparent manner.

Mr. Chairman, Sir, I have no time to narrate the entire Report and its specific recommendations. But I would like to highlight a few recommendations for the benefit of the House as well as for the understanding of the Government, if in future course they like to improve it.



I shall begin with the last recommendation of the Report first. Recommendation no. (xxiv) says:

"There must be a specific provision in the Bill, which casts a duty on public authorities to prepare documents that enable people to know from which authority, office and where information will be available. "

This is not included in the Bill. There is not even any narration as to how this could be done.

Now, I come back to another important recommendation – that is recommendation no. (viii) of the Standing Committee, which says:

"Since the intent of the Bill is to put in place an effective procedure for enforcing the right to information, the procedural issues must be detailed and clearly stated. "

This is also missing in the Bill. If the procedural issues are not detailed, how can you expect that a person, howsoever knowledgeable he or she may be, would try to get and uses the points that he desires to make, if his intention is to get the information from the authority? This has not been done.

Recommendation no. (iv) says:

"This Bill also should apply to all including organisations/associations/parties/trusts/unions/societies/private or non-Governmental, in addition to Government bodies and agencies."

There are many other recommendations, which perhaps the Ministry, the Government and the Minister have gone through. Two specific recommendations on the period have been mentioned. Recommendation no. (xiv) says:

"Section 8(2) provides for a period of 25 years for releasing information, which is unconscionably long. It should be 15 years. "

I think, everywhere it is so. This has not been accepted.

Recommendation no. (xvii) says:

"Furthermore, the period of 50 days for inviting third party representation is too long and will be detrimental to the interest of the requestor. It should be only 15 or 30 days. "

Even this has not been accepted.

These are a few recommendations, which I would like to once again bring to the notice of the hon. Minister.

Section 16(1), I feel, besides the Report, should have been considered. Section 16(1) and Schedule should be reworded to narrow down the blanket exclusion given to organisations. Excluding certain organisations completely from the purview of the legislation defeats the purpose of the law. There is no rationale for exempting the administrative wings of this organisation from disclosing the relevant information. However, in spite of all these, the Government came forward with this Bill and we are supporting it.

There is one interesting area, which hardly any Member has pondered. Ultimately to define, to narrate the exemption clauses – articles 8 and 9 give the areas which are exempted – under whose satisfaction it will be treated? Suppose I sought an information as an individual, not the classified files on Defence but I sought an information which is vitally linked with the interest of the security of India, at least to the knowledge of the people of India, what is that specific thing? Now, I find that India is managing its water borders and the boundaries of rivers and seas precisely with the coastal guards.

But, as a citizen of India, as a welfare organisation of India, if I feel my country would be threatened tomorrow or day after tomorrow even by the Americans operating in the Gulf or by China using Karachi Port to come to the Indian Ocean and in that regard, if I want to know whether my country is having enough aircraft carrier with all the modern arrangements, ammunitions and everything and at that hour if that is considered to be a classified information or secret, then the knowledge of the people of India would not be very much transparent. Transparency is also linked with knowledge. Therefore, there can be rumour, confusion and campaign to create a fear psychosis. But if the information is given saying, do not worry, yes, India is having nine aircraft carriers; China is having seven or 12 or 14; and our combatant in two aircraft carrier is enough to combat all the threats coming even from the nuclear vessels of China or the United States, then the nation is very clear. At that particular hour, if this is considered to be

a secret, then it is not transparent. Here there is no definition. If there would have been a Schedule that information on defence, which is vitally linked with the interest of the nation, is not to be disclosed to the knowledge of the enemy, I could understand that. But you have only mentioned 'it is in the interest of the security and sovereignty of the nation'. Who will decide the interest of the sovereignty and security of the nation? It is not the Government as a whole; it is the authority. The authority, under political influence, at one point of time, can give the information, and at another point of time, cannot give the information.

I give you an example. Do not take it otherwise. I am not scoring any political points. A few days before on a very vital report of the Comptroller and Auditor-General of India linked with defence, when the Public Accounts Committee collectively and unanimously sought certain information to examine a few files of the Ministry of Defence, the Committee, which was appointed by the Parliament, was denied. The Committee unanimously had to bring it to the knowledge of the Speaker that such things were being encouraged. Now, do you consider such disclosure to a Public Accounts Committee of Parliament as tantamount to the interest, security, safety and sovereignty of India? These are political decisions or judgements. The political judgement is that a disclosure of a particular information may hurt an individual of the Government or a Party or a Member of the House or an officer. If you classify and club it under clause 8 and 9 as 'in the interest of sovereignty and security of our country', then the very purpose of this Bill will be frustrated. Therefore, I desire that another Schedule should have been maintained to detail certain things that these are the areas that are exempted. We are not interested in knowing wherefrom the Government of India was planning or wherefrom the nation was considering the first experiment of Pokharan. No, it could be secret. We shall not demand it in the interest of the country. But why other information, which is linked with the transparency of the administration, public exchequer, revenue of the people, for the benefit of the tax-payer and in the interest of an individual, should be withheld under the definition 'in the interest of the nation and security of the country'? I think this needs to be further classified, narrated and explained by the Government in the Bill.

Now, for example, let us say that the Bill has a retrospective effect. If one Member of the House or an investor in the country would have sought an information from the UTI through the appropriate channel that how much withdrawal has been made by a few investors before the UTI scam, who are big companies, and how much of that will stake the net asset value of my investment, I would be knowing whether a time has come for me to withdraw my own stake or not.

If such an information is not given and is treated to be in the absolute interest of the country's economy and sovereignty and then something fatal happens and it is exposed and if we accuse that a scam has happened, then you say that it was not done. In such a case how will it be treated? Therefore, I appeal to the hon. Minister that at a later stage she may consider including certain Schedules, like Schedule A, Schedule B, Schedule C, Scheduled D, etc., which should be exempted from giving information. She can say that such type of information is exempted and it cannot be given. Otherwise, the way the Bill is drafted, I read it without any definition and it is a blank thing. You say that if you desire, you can give the information, otherwise the information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic, scientific or economic interest of India or conduct of international relations, cannot be given. Yes, the sentences are very good.

Now, I come to the point of economic interest of India. What is the economic interest of India? In an open economy, in the whole world, in the global economy, what is further economic interest of India? The oil sector is open, the aluminium sector is open, and the energy sector is open. Here I smell something. Is it that if I seek an information, the disclosure of which will unearth a great corruption or a scam, you will describe it under the definition of economic interest of India and, therefore, it will be exempted? Therefore, these are the things which need total clarity and explanation. Now there is no clarity here. You said about economic interest of India. You said: "the information, the disclosure of which would prejudicially affect public safety and order, detention and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case". Yes, I agree with you. But you may tell me one thing. If the Judiciary demands the CBI, as it is happening everyday now in the Supreme Court and High Courts, that for this particular issue, they demand to get the documentation within seven days before the court, then the CBI comes to the Revenue Secretary and says: "Sir, so and so information is now being required by the judge to be placed before them." The judge can summon and get the information. You can say that it is demanded by the Judiciary. But if a Member of Parliament, if a public organisation demands to get that information, you deny it saying that it will prejudicially affect the fair trial or adjudication of a pending case. How will it prejudicially affect, I do not understand it. The entire Bofors investigation, whether it is right or wrong and which is now in the court, is before you. More than what is told in the courts had been leaked or led to be leaked, genuine or fraud, in the news media and it is without challenge. Did that affect the trial in the court at any stage? It did not. Therefore, I feel that these are the areas where your clarity is not sufficient in the text of the Bill.

I can understand about Cabinet papers including records or deliberations of the Council of Ministers, Secretaries and other officers, which should not be given and should not be sought as an information. I agree with that.

Now, I come to trade or commercial secrets. What are trade or commercial secrets? Kenya is dumping tea; China is dumping its small-scale industrial goods, ruining India's industry. If I seek an information that whether it is a fact that during the visit of a particular Minister, or of a particular Government, or of a particular Delegation, the Government has agreed to please the political authority of that country – be it China, USA or anybody- and to accommodate increased number of dumping of a particular commodity so as to get its vote in the United Nations at the cost of the farmers of India and if that is classified as a trade secret or as a commercial secret, I think, it is not correct in the global economy. How is it? It is not correct.

I agree with it. Take one thing for instance. I am not sure and the Government may correct me if I am wrong. The then Prime Minister of Pakistan Mr. Nawaz Sharief and the then President of the United States of America Mr. Bill Clinton once tried to negotiate that the Pakistan Government were to dump their wheat and sugar in India at an exorbitant price under OGL and they could send their people to bring it and then they would come to some understanding of the so-called Lahore Declaration. Then the Indian market was flooded with those things and our farmers were crying. Mr. Bill Clinton also persuaded India to get as much almonds and other nuts and other things that we could get from the USA, more than what we require, so that some kind of support would be extended. If a gentleman from CII, FICCI or ASSOCHAM or any individual asks whether the Government would give that information on what transpired commercially between these two Governments and whether that is helpful to India or not, you will come out with this clause of 'I cannot give you as it is a trade or commercial secret'. Then, how do I verify it? Sir, on all these matters, if I mean transparency, I mean some clarity which would have been there in the Bill. But it is missing from this Bill.

Take the case of *Tehelka*. I am not debating whether what *Tehelka* did was right or wrong. On the one hand you are aiming to give a transparent administration and on the other hand you are doing this with the media. The media is a vital wing of the nation. It is the third eye of the democracy – *Trinetra*. They may do it rightly or they may do it wrongly. But so long as you do not impose a provision under the Constitution of India called Emergency, they all enjoy the right under Article 19 of the Constitution. If they come out against me as a Member of the Congress Party or be it against you, then you have a right to file a defamation suit against them, you have a right to go to the Press Council of India and you have a right to challenge it in the court of law. It is okay. But if the media – be it the electronic media, private media or anybody else like *Tehelka* – does something, then on the second day itself, before justifying whether it is right or wrong, if you go on gagging its voice, then it is not correct.

I saw it in the case of *Tehelka*. One company called First Global was treated like anything. The CBI, the Enforcement Department, the SEBI, etc. were asked to find out as to wherefrom the money came - even the money which was taken by Shri Bangaru Laxman - and who brought it and they were asked to kill them, arrest them or close them; but they were told not to find out wherefrom the Mauritius route of companies are operating with the patronage of some very very important VIPs of this Government. Is it transparency? Is it right of information?

Take the case of *Outlook* magazine. I know that one-and-a-half years back they became certainly very critical of the Government on certain things. You see as to what happened to the *Outlook* magazine. Is it freedom of information? I know as to what kind of harassment has been done to them. I do not like to narrate it.

You must be very clear in your objective. The Bill is good. But your principal objective should be that the media should not be considered this way and treated to suit your political convenience and then you could rule them as you desire. Though I support the Bill, I would request the Government, particularly on clauses 8 and 9, that they must explain them in more detail on the clauses concerning exemption where they feel that the information should not be provided.

With these words, I support the Bill. I support it because the very concept of this was conceived in 1997 when the United Front Government was there. Since many parts of the world have accepted it and since many States in India have accepted it, the Central Government must enact it into a law. I pay my highest regards and respect to all the Members of the Standing Committee, irrespective of the party affiliation, who worked very hard and gave such wonderful recommendations which, of course, have not been substantially endorsed by the Government. Yet, I look upon the Government that in future if they find time, they could incorporate a few more suggestions of them to make this Bill more flexible and to ensure more transparency.

**16.00 hrs.**

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Thank you, Mr. Chairman Sir. I stand in support of the Freedom of Information Bill, 2000. Before I go into the Bill itself, I would like to pick holes in the statement of Shri Somnath Chatterjee. He is not here, but I have taken his permission. While he was going out, I had told him that I would be picking holes in his statement and he very generously said 'you are welcome'. I think, he must be observing it on the TV itself. Shri Somnath Chatterjee has said that that Bill is for public consumption. I do not agree with it. If it had been for public consumption, the Government would not have brought this Bill at all. May I remind him of a beautiful

saying in *Julius Caesar* of Shakespeare? May I quote it here? It is : "Those that with haste will make a mighty fire begin it with weak straws." Maybe, we have started with weak straws, but it will be a mighty fire in the days to come. This is the beginning with which we have started this Bill itself and we are discussing it here.

May I remind Shri Chatterjee that he has not gone into the *non-abstante* clause which has been provided in the Bill itself? The *non-abstante* clause says about the Official Secrets Act and any other law that is in force at the time of passing of this Bill. It means section 5 of the Official Secrets Act will not be taken into account. It means that sections 123 and 124 of the Evidence Act will not be taken into account. Or, for that matter, any other law which will be inconsistent with this particular law itself will not stand the scrutiny of the courts itself. I think, he has made that statement for public consumption only. That much and no further on that issue.

Mr. Chairman, Sir, this Bill has originated almost from 1982. The Mathew Committee had started it, the United Front Government had made a base for it and the NDA Government has made a citadel, a very forceful citadel for that matter. Sir, you will kindly agree with me that information is the oxygen of democracy. It is the hallmark of success of any democracy. The NDA Government under the leadership of Shri Vajpayee has been making it very transparent and effective as it makes it known to everybody that we are not hiding anything; we want to say as to what we say; we want to show as to what is to be shown; and we want to co-operate with people in all respects.

Now, so far as the processes are concerned, no process can be kept in the Act itself. It is a question of procedure. We are treading into an untrodden path. It is a fact that we have taken into account article 19 of the Universal Charter of Human Rights and as per the Supreme Court's decision on Fundamental Rights. I am not going into the details of it as earlier speakers have dealt with it. We are going into different paths altogether and we do not know as to what path, we will be taking and what type of difficulties we may come across. That is why, you will kindly see that clauses 20 and 21 have been provided in the Bill itself. Rule-making is an inherent part of a Bill. An Act cannot take into account all aspects of workings. That is why, rule-making has been provided and that is why, under Article 105, you have indicated about Committees. The Committee on Subordinate Legislation is a powerful Committee where I am a Member, hon. Chairman presiding over here is the Chairman of that Committee is Shri Pandian and our friend, professor Sanadi *sahab* is also there. We are going into the details in the Committee.

#### **16.04 hrs. (Dr. Laxminarayan Pandeya in the Chair.)**

Whenever you enforce a law, there might be some difficulties in enforcing it. Let me remind everybody that laws are good, but the implementing agencies may be indifferent. They may not take into account the spirit of the law itself. As Shri Mahtab was telling, if the implementing agencies, the administrative functionaries work properly, I am sure, 90 per cent of our laws will be effective and this is one such law which can be effective if the public information officer and the competent authorities take into account the spirit of the Act itself.

If that is taken into account, I am sure, all these facts which have come by way of criticism will not be there. I would invite the attention of Shri Priya Ranjan Dasmunsi to certain facts he had indicated about something relating to recommendation 24 and all those things. May I remind him, Sir, he must have known about some 15 or 16 ISI modules which are working in West Bengal, about 59 ISI modules which are working in U.P., and many other provinces of our country have modules of ISI. To know about an ISI module, it takes almost a year or two or three years. It is a tedious way of collecting information, collating them and then coming to a definite conclusion as to what type of activity is being carried on by those people. If such type of information is given to the public by way of right to information, I am sure, he would, at a later stage, say that it was not a proper decision to handover information to the people who should not have taken it because it affects the sovereignty and integrity of the nation.

I would invite his attention to the Money-laundering Bill. It is purely something to do with the laundering of money from place to place, from country to outside and all that. You will find that there is a clause relating to money being used for prostitution. In prostitution itself, you could find that there are lots of things which are being done which may, in a way, go against the sovereignty and integrity of the country itself. The prostitutes also may be used against the country.

Take the case of the Narcotic Drugs and Psychotropic Substances Act. In the Golden Triangle, as we say, Pakistan-Burma-Afghanistan, that area, lots of drug trafficking is taking place -- drug trafficking has been the bane in our North East -- and along with drug trafficking, gun running is taking place. Lots of information that comes in trickles to the Special Branch or the Intelligence Bureau or even to the banking authorities. Now, if you ask for the information from the banks itself, naturally, they would say that they cannot give it to you because it is linked with the NDPS Act or in a remote way, it is connected with the sovereignty and integrity of the nation. There are many matters which may look innocuous to the ordinary person but may have far reaching consequences if analysed properly.

All these facts have been taken into consideration while keeping certain actions beyond the Information Bill.



I would say, Sir, information is the oxygen of democracy. It is a fact that we must have oxygen to live. If it is too much of oxygen, what would be the difficulty? If it is too much of information, what would be the difficulty? Kindly appreciate all these things. This is a new legislation which we are bringing into effect and there are lots of things to be seen in this thing.

You have criticised clause 8. I also agree that clause 8 has to be more circumspect. It is understood, but let us make a beginning. As I have said, clauses 20 and 21 will take care of these difficulties, but one matter which, perhaps, has not engaged the attention of the hon. Minister is regarding the competent authority itself. May I invite the attention of the hon. Minister to the definition of competent authority which has been described in clause 2 (b)? Now, the competent authority is the Speaker, the Chief Justice of India, the Chief Justice of High Court, the President or the Governor, as the case may be. You have given them powers to make rules.

So far as the State Government's rule-making power is concerned, the rules will be laid before the State Legislature. So far as the Central Government's powers are concerned, the rules will be laid before the Parliament. But so far as the rules made by the competent authority is concerned, who has to see this? *Quis custodiet ipsos custodes?* It is a Latin phrase, which means, 'who will guard the guards themselves'. Are these competent authorities not subject to the supervision of the Parliament itself? This is a moot point which has to be discussed threadbare because they are to make rules, whether it is the Supreme Court or the Speaker of the House or the Chairman of the Upper House or for that matter any other person, the rules must be placed in the Parliament. Whatever rules they make must be placed in the Parliament. This is a flaw and it has to be corrected at the time of making rules. As per clauses 18 and 19, as has been provided in the Bill itself, while making the rules, all these things have to be taken into account. Otherwise, it will not be flawless and many difficulties may come up.

Sir, there might be three other difficulties in enforcing the provisions of the Bill when it becomes an Act. The first would be the political aspect of it. I am not saying anything as a Member of the BJP, or my friend from the other side may not be saying anything from the Congress side but the point is that there must be political ethos evolved to see that information is given to people whenever they ask for it. The BJP is in power at the Centre, the Congress is in power in certain States, but unless we evolve political ethos, this Bill would not be effective at all. The matter that requires the attention of all the representatives of the people is that political ethos would have to be created.

Sir, the second difficulty that might arise is in regard to the constitutional objections that would have to be taken into account. When we take up the constitutional matters, we have to think about the relationship between the Ministers and the civil servants. Shri Dasmunsi was referring to the Cabinet decisions as per the clauses that have been provided for in the Bill. If we have to think about that, then secret matters should not be given to the persons who ask for it, like the relationship between a Minister and a civil servant. It is absolutely a secret matter and nobody should ask for such an information. Even information in regard to Cabinet decisions should not be asked for. That is the key to good governance.

MR. CHAIRMAN : Please conclude now. There is one more Member to speak from the BJP side.

SHRI ANADI SAHU : Sir, I would conclude within a minute.

Sir, the third difficulty that might arise is in regard to the cost. What enormous cost would it require to prepare the records and give those to the people? These three aspects would have to be taken into account. I am not going into the details of the Bill since the hon. Chairman has ordered me to conclude my speech. I am concluding my speech with my support to this Bill.

SHRI P.H. PANDIAN (TIRUNELVELI): Mr. Chairman, Sir, right to information is a basic right. It is an accepted fact the world over that there should be transparency in administration and every citizen should have access to public records and people should have access to the functioning of the Government.

Now, prior to passing of this Bill, the citizens had no access to public records and in some cases, the information was kept in safe custody. In the year 1996, I filed an election petition against a contractor. I presented a letter to the Executive Engineer, PWD (Highways) asking him to present the particulars of a contract. But the Engineer replied to me saying that he could not supply that information. The matter was to be taken up by the Original side of the High Court that was dealing with election petitions. It had ordered that all public authorities are obliged to supply information to the petitioner. I would say that the election petition could not be drafted properly due to lack of those particulars. Had I been given those particulars at the time of filing the petition, then those would not have been lagging in the petition. Now, the Government of India has brought forward this Bill. It is a welcome measure. I and Shri Sahu, as members of the Standing Committee, had deliberated about it in detail.

All legal formalities and legal hurdles have been cleared by the Committee. Now it has come to the House in a complete form. I do not want to comment on this report because it is well drafted and we all have presented it to the Parliament.



1617. Shri Dasmunsi has mentioned that if courts summon public records, authorities are obliged to give them to the courts. For example, CBI does not give all records to a petitioner. If the court directs the CBI to supply certain records, the CBI has to supply those records to the court. Under article 226 of the Constitution, courts enjoy the power of summoning any record including the cabinet minutes. Even in the case of judges' appointments, court has the power to call for all facts. Nothing is secret in that case. Nothing was secret in that case. So, transparency should be there. To ensure transparency, the Bill has been piloted by the Government. I welcome this Bill. This is a good measure when compared to those obtaining in the other parts of the world.

**डॉ. रघुवंश प्रसाद सिंह (वैशाली) :** सभापति महोदय, सूचना के अधिकार संबंधी विधेयक के बारे में कहा जाता है कि यह लोकतंत्र की पहली लड़ाई और आजादी की दूसरी लड़ाई है। इतिहास है कि 1978 में द्वितीय प्रेस आयोग का गठन हुआ था और उसने कहा था कि सब को सूचना का अधिकार हो। उसके बाद 1989 में नेशनल फ्रंट की सरकार के समय श्री वी.पी. सिंह प्रधान मंत्री बने तो सर्वप्रथम उनके घोषणा पत्र में सूचना के अधिकार का जिक्र किया गया था। उस समय देश भर के एनजीओज और लोकतंत्र को मजबूत करने वाली शक्तियों ने कहा था कि सब को सूचना का अधिकार मिलना चाहिए, तभी लोकतंत्र मजबूत और सफल होगा। सभी लोगों ने इस बात को माना है कि लोकतंत्र में लोगों को सूचना का अधिकार हो और पारदर्शिता हो।

यहां सवाल आया कि दुनिया के विभिन्न मुल्कों में यह लागू है और कई विकसित तथा विकासशील देशों ने इसे लागू किया है। अमेरिका, ब्रिटेन, कनाडा, आस्ट्रेलिया और छोटे-छोटे कई देशों ने इसे लागू किया है। पहले विभिन्न राज्यों ने इसे जैसे-तैसे लागू किया। राजस्थान, मध्य प्रदेश, कर्नाटक, महाराष्ट्र दिल्ली और गोवा में यह लागू हुआ। देर से ही लेकिन केन्द्र सरकार चौकी है। पहले 1989 में इसकी घोषणा हुई थी लेकिन वह सरकार जल्दी चली गई। उसके बाद नरसिंह राव जी की सरकार आई लेकिन कुछ काम आगे नहीं बढ़ा। 1996 में जब यूनाइटेड फ्रंट की हुकूमत आई, उस समय प्रेस काउंसिल को कहा गया कि वह इस बारे में अपनी राय दे। उन्होंने बिल का प्रारूप बना कर दिया। 1997 में श्री एस.डी. शौरी की अध्यक्षता में अफसरों की एक कमेटी बनी। इसके पहले इसका नाम राइट टू इनफॉर्मेशन था लेकिन अफसरों की कमेटी बनने के बाद इसका नाम फ्रीडम ऑफ इनफॉर्मेशन हो गया। हमें इस पर भारी आपत्ति है। राइट टू इनफॉर्मेशन करने से, बोलने से और व्य वहार में लाने से जनता को ज्यादा ताकत मिलती है। अफसर लोगों ने अपनी मैनटैलिटी के मुताबिक इसका नाम बदल दिया और सरकार ने उसे मान लिया।

राष्ट्रीय मानवाधिकार आयोग ने कहा है कि राइट टू इनफोर्मेशन नाम होना चाहिये, आपने क्यों सूचना स्वातंत्र्य नाम रख दिया? इसके लिये लड़ाई होती रही है। राज्यों में राइट टू इनफोर्मेशन नाम है लेकिन आपने उसे कमजोर कर दिया। विधेयक के नाम से लगता है कि इसमें हेरा-फेरी है। क्या इससे लोगों को राइट टू इनफोर्मेशन मिलेगा?

सभापति जी, माननीय मंत्री जी विधेयक लाये हैं। जब मंत्री शपथ लेते हैं तो मंत्री पद ग्रहण करते समय कहते हैं कि हम न्याय करेंगे और संविधान को अक्षुण्ण रखेंगे। इसके अलावा एक और शपथ होती है- पद और गोपनीयता की। जब गोपनीयता वाला कानून मौजूद है तो राइट टू इनफोर्मेशन का क्या हुआ? क्या राइट टू इनफोर्मेशन से ट्रांसपेरेंसी का मामला हल होगा, यह हम जानना चाहते हैं। जब मंत्री बन जाते हैं, तब कैसे सूचना देंगे और कौन देगा? इसलिये मैं सरकार से जानना चाहता हूँ कि क्या सरकार उस पद की गोपनीयता खत्म करना चाहती है, अगर लोगों को राइट टू इनफोर्मेशन देना चाहती है?

सभापति महोदय, ऑफिशियल सीक्रेट एक्ट, 1924 में अंग्रेज सरकार ने बनाया था। वह यहां लोगों को दबाकर अपना शासन करना चाहती थी। उनके द्वारा जनता को राइट टू इनफोर्मेशन से क्या मतलब था? जब संविधान की धारा 19 में कहा गया है- अभिव्यक्ति की स्वतंत्रता, बोलने की स्वतंत्रता- तो उसी में राइट टू इनफोर्मेशन लोगों को होनी चाहिये। लेकिन आज इस देश में भ्रष्टाचार और घोटालों पर घोटालों हो रहे हैं- यू.टी.आई., एक्साइज घोटाला, शेयर घोटाला, प्रतिभूति घोटाला, हवाला घोटाला- ये सब उम्र से नीचे तक हैं। दुनिया के जितने इंटरनेट और इंटरनेट अल्स हैं, जितने जानकार लोग हैं, उनका कहना है कि सूचना में पारदर्शिता होनी चाहिये जिससे भ्रष्टाचार खत्म होगा, उस पर अंकुश लगेगा। ट्रांसपेरेंसी इंटरनेशनल इस निर्णय पर पहुंचा है कि जहां जहां ट्रांसपेरेंसी है, वहां-वहां भ्रष्टाचार कम मात्रा में है। ट्रांसपेरेंसी खुली रहे और यही डेमोक्रेसी का अर्थ है। पाकिस्तान में डेमोक्रेसी का कोई मतलब नहीं, फिर भी वहां राइट टू इनफोर्मेशन है। कई देशों में कमजोर कानून रखे हुये हैं, तब यहां क्यों कमजोर कानून बन रहा है?

सुप्रीम कोर्ट के विभिन्न फैसलों में कहा गया कि राइट टू इनफोर्मेशन होना चाहिये। जस्टिस पी.वी. सामंत ने कहा कि ट्रांसपेरेंसी नहीं रहने से भ्रष्टाचार बढ़ता है। जस्टिस भगवती ने भी यही कहा है। इसके अलावा जानकार लोगों और कानूनविदों ने भी यही कहा है कि राइट टू इनफोर्मेशन होनी चाहिये और इसमें पारदर्शिता होनी चाहिये। लेकिन यहां पारदर्शिता का अभाव है। इस बिल में यही कमजोरी है। हमारे गांव में एक कहानी है- 'ऐसन देहात न जहां पनिया की भाप न निकलत आंगनिया'। हम लोग सरकार में देखते हैं कि इस तरह से भाप ढक कर रखी जाती है कि बाहर के लोगों को कोई जानकारी नहीं रह कि सरकार की हर जगह पर हेरा-फेरी हो रही है। गांव में जो कुछ करना है, उसके लिये ग्रामसभा जवाबदेह है। इन्होंने यही पारदर्शिता का गला घोटने का काम किया है।

आपने इसकी प्रचार नहीं किया। प्रचार में खाली अपना फोटो और सरकार की चापलूसी का प्रचार हो रहा है। असली बात की जानकारी जनता को होनी चाहिए। ग्राम सभा के सभी लाभार्थी ग्राम सभा से तय होंगे, कहां है सूचना का अधिकार। वहां कहां उनके लिए जानकारी और ट्रांसपेरेंसी है। इंदिरा आवास योजना में कौन गरीब का मकान बनेगा। अंत्योदय अनाज योजना, अन्नपूर्णा योजना आदि जितने गरीबी उन्मूलन वाले कार्यक्रम हैं, उनमें ट्रांसपेरेंसी का भारी अभाव है। इस कारण उनमें भारी गड़बड़ी और घोटाले हो रहे हैं। इसलिए सरजमीन पर जो अनपढ़ तबका है, उनका क्या राइट टू इनफोर्मेशन होगा। इसमें सरकार की जवाबदेही बनती है कि उन कार्यक्रमों, उन योजनाओं के बारे में जनता के बीच में प्रचारित और प्रसारित किया जाए। विभिन्न मीडिया, टी.वी., रेडियो, अखबारों के जरिये सरकार के कार्यक्रमों के बारे में सभी को बताया जाना चाहिए। जो ऑफिसेज में काम करने वाले लोग हैं, उन्हें भी निदेश दिया जाना चाहिए कि जनता के बीच में चीजों को खुला रखें, ट्रांसपेरेंसी रखें।

**सभापति महोदय :** कृपया समाप्त कीजिए।

**डॉ. रघुवंश प्रसाद सिंह :** सभापति महोदय, आप पार्टी के समय को देखते हैं, लेकिन विधेयक पर बहस में पार्टी का समय देखना क्या उचित है। कितनी पार्टियों के लोग एबसैन्ट हैं। उन पार्टियों से बोलने वालों का नाम है। उनका समय कौन लेगा। उनके समय का क्या होगा। उन सबके बदले हम बोल रहे हैं। इसमें कई पार्टियां अनुपस्थित हैं। उन सबके द्वारा बोला जाता, उनके समय का क्या होगा।

**सभापति महोदय :** रघुवंश बाबू, काफी लोग बोलने वाले हैं, कृपया आप समाप्त करिये।

**डॉ. रघुवंश प्रसाद सिंह :** हम सरजमीन की रिलिवैन्ट बात कर रहे हैं। सरकार कागज की बात कह रही है, "तुम कहते कागज की लेखी, हम कहते आंखिन की देखी।" सरजमीन पर जो कुछ हो रहा है उसके संबंध में राइट टू इनफोर्मेशन होना चाहिए, नहीं तो जो सूचना स्वतंत्रता विधेयक है, उसका थीम क्या है। सूचना पाने की जनता को स्वतंत्रता है और इसमें सूचना देने या न देने की इन्हें स्वतंत्रता है। यही सूचना स्वतंत्रता विधेयक है। जिसमें सरकार चाहेगी, उसी बात की सूचना देगी, जो नहीं चाहेगी, नहीं देगी। यह क्या ट्रांसपेरेंसी हुई। हमारा राइट टू इनफोर्मेशन कहां चला गया, जनता का अधिकार कहां चला गया। इस विधेयक में भारी खराबी यही है। सूचना की स्वतंत्रता पाने के लिए जनता स्वतंत्र है और सूचना देने या न देने के लिए सरकार भी स्वतंत्र है। इसमें यही खामी और खोट है। इसमें आप सूचना स्वतंत्रता के बारे में बता रहे हैं।

सभापति महोदय, सरकार ने वोहरा कमेटी बैठाई थी और वोहरा कमेटी की रिपोर्ट आई थी। इस कमेटी ने रिपोर्ट दी थी कि राजनीतिक लोग, अपराधी लोग और अफसर इन तीनों का भारी गठबंधन और नैक्सस है। उसकी रिपोर्ट सरकार ने छिपाकर रख दी। सूचना स्वतंत्रता में सबसे पहले वहीं सूचना हमें दे दें। वोहरा कमेटी की रिपोर्ट कहां चली गई। उसमें 8, 9, 11 और 16 चार धाराएं हैं, उनमें पर्याप्त गुंजाइश है कि सरकार जिसे चाहेगी, उसे सूचना देगी, जिसे नहीं चाहेगी, उसे सरकार सूचना नहीं देगी। इसलिए लोकतंत्र और प्रजातंत्र का ठीक राज वही कहा जायेगा जिसमें स्वच्छता, पारदर्शिता, संवेदनशीलता और जवाबदेही ये चार सूत्र होंगे। श्री अनादि साहू अपने भाषण में बता रहे थे कि बड़ी भारी ट्रांसपेरेंसी है। कहां ट्रांसपेरेंसी है। सारे घोटाले आपके राज में हुए हैं। ट्रांसपेरेंसी होने से कोई घोटाला नहीं होता। सफाई देने वाले लोग खड़े हो जाते हैं और असलियत से इनकार करने लगते हैं। क्या घोटाले नहीं हुए। सारे घोटालों के बाद क्या आपने वित्त मंत्री को नहीं बदला। वित्त मंत्री बदलने से क्या घोटाले समाप्त होंगे।

हम सरकार से जानना चाहते हैं कि देश भर के कानून केन्द्र सरकार बना रही है, लेकिन जिन राज्यों में राज्य सरकार ने कानून बना लिये हैं, क्या उनमें राज्य सरकार के कानून लागू होंगे या केन्द्र सरकार के कानून लागू होंगे। कृपया इस सवाल का उत्तर दें। जिन राज्य सरकारों ने अपने कानून बना लिये हैं उनमें राजस्थान, महाराष्ट्र, कर्नाटक, गोवा, दिल्ली आदि हैं। क्या इन राज्यों की क्लॉज और केन्द्र सरकार की क्लॉज बराबर होंगी या दोनों फर्क होगा, दोनों के विधान में फर्क होगा तो वहां राज्य सरकार का कानून लागू रहेगा या भारत सरकार का कानून लागू होगा।

मैं मान लेता हूँ जिन राज्यों ने कानून नहीं बनाया है, उन राज्यों में केन्द्र सरकार का कानून लागू कर देंगे लेकिन जिन राज्यों में राज्य सरकार ने कानून बनाया, उनके यहां राज्य सरकार वाला कानून लागू होगा या इनका वाला लागू होगा, सरकार इस बारे में स्पटीकरण दे।

फिर इसमें अपील और दंड का क्या विधान है। मान लिया कि कोई अधिकारी स्पटीकरण देने से इंकार करता है, देरी करता है या एक पन्ना कागज़ लेने का दाम ही दस रुपया रख देगा तो गरीब आदमी उतना पैसा कहां से लाएगा, आम आदमी को कैसे सूचना मिल सकेगी? अब तो फोटोकॉपी मशीन गांवों में ब्लाक स्तर तक चली गई है। अगर गरीब पता करने जाएगा कि किनका नाम इंदिरा आवास योजना में है तो वह एक महीने में देंगे और तब तक सब काम हो जाएगा। **ऒँ** (व्यवधान)

**सभापति महोदय :** कृपया समाप्त करें।

**डॉ. रघुवंश प्रसाद सिंह :** जी हाँ, मैं समाप्त कर रहा हूँ। जो असली जनता है, असली गरीब आदमी है, जो अनपढ़ है, गरीबी रेखा से नीचे है, जिनको सरकार की योजनाओं का लाभ मिलना चाहिए और सरकार दावा करती है कि गरीबी उन्मूलन का हम काम कर रहे हैं, उसमें जो गरीब वंचित रह जाता है, जैसे राजीव गांधी जी ने भी कहा था कि एक रुपये में से 15 पैसे ही गांवों में पहुंचते हैं। राइट टु इनफॉर्मेशन और ट्रांसपैरेन्सी होने से रुपये का रुपया गांव में पहुंच जाए इसके लिए सरकार ने कौन सी कार्रवाई की है? इसलिए पंचायत, ब्लाक स्तर पर, जिला स्तर पर, बैंकों में प्रधान मंत्री रोजगार योजना में दरखास्तें पड़ी रहती हैं, दबाकर रखी रहती हैं, ट्रांसपैरेन्सी नहीं है, राइट टु इनफॉर्मेशन नहीं है, वहां भी घोटाला और रिश्वतखोरी हो रही है, इसलिए जो गरीब हैं उनको लाभ नहीं मिल रहा है। (व्यवधान)

**सभापति महोदय :** रघुवंश जी, आपका समय खत्म हो गया है, अब आप समाप्त करें।

**डॉ. रघुवंश प्रसाद सिंह :** अंत में मैं कहना चाहता हूँ कि जो सरकार प्राइवेटाइजेशन कर रही है, यह कहा गया है कि प्राइवेट और स्वयंसेवी संस्थाओं में आपको राइट टु इनफॉर्मेशन नहीं रहेगा। तो जब प्राइवेट हो रहा है, सरकार की चीजें बिक रही हैं तो उस मामले में हमें राइट टु इनफॉर्मेशन नहीं रहेगा और वह जब घोटाला करेंगे तो उसमें सरकार कौन सी कार्रवाई करेगी, इन सभी बातों पर सरकार ढंग से उत्तर दे। इसलिए राइट टु इनफॉर्मेशन वाले बिल को असली राइट टु इनफॉर्मेशन बनाना चाहिए।

**सभापति महोदय :** बालकृष्ण जी, मैंने आपका नाम और रासा सिंह रावत जी का नाम पुकारा था। उस समय आप दोनों ही सदन में नहीं थे।

**SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA):** Mr. Chairman, Sir, I rise to support the Bill. In today's world scenario, this Bill is nothing but assertion of democracy.

We were ruled by the colonial system and we have borrowed from it the system of writing a decision in black and white and also keeping it as a secret under the Official Secrets Act. In the past 50 years of our democracy, we have learnt a lot of things. Also, a number of things came out under the garb of official secrets. The Constitution of India has given writ jurisdiction to the High Courts and the Supreme Court because of which many secrets of the Government, which were not expressed to the common man, have been made public and the courts could adjudicate the matter in proper perspective. At the same time, the fourth pillar of democracy, that is the Press and the media, has entered into the arena and has come out with a number of secrets of the Government. They have expressed it in so many terms by calling it scam, scandal and so on.

Here is a Bill which seeks to give right to the people to make the Government as the Government of the people, for the people and by the people. If clause 4 is to be followed, obligation to the public authority is to be followed, there is no need at all for any writ jurisdiction. Thus, there will be a vacuum in the fourth estate of our democracy, that is in the media and the Press.

The heart of the Bill is in clause 4 but clause 8 takes away everything. I would like to know from the Government whether this would apply to the appointment of the judiciary, especially, the judges of the High Court and the Supreme Court. It is because it is an executive and an administrative act. But the Bill says that the competent authority is the Supreme Court judge and the Chief Justice of India, and also the Chief Justices of High Courts. That means the appointment of judges, transfer of judges, and anything else can be brought into this particular clause. I would like to know from the Government whether it is the intention of the Government.

I would like to draw the attention of the Government to the third tier of the Government, namely, local bodies, Zila Parishads, and the level below that which is the attraction of the common man who wants to know how much fund is available, how that fund is utilised, who is handling it, and how the execution of the Government work is being done. He also wants to know whether there is corruption or not. These things should be known to the people. But sub clauses (i) and (ii) of clause 2(a) mention the Central Government and the State Governments. But the third category, namely, the local administration is missing. Therefore, that clause should be amended in future to include local bodies also so that it can attract common man's attention also and information of the local administration can also be known to the common man.

Regarding clause 4, I would like to stress that the definition in clause 4(e) is very important. I feel that it is the heart of the Bill. It says:

"(e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of maintenance of democratic principles. "

This is the heart of the Bill. I feel that this principle should be taken into consideration in each and every aspect when the information is sought for. When a person seeks the information, this should be the touch stone as to why this information should be given to that particular person.

As regards the period of 30 days for giving information, it is too long. We are in the electronic age and every information can be given through electronic media. Various web-sites are giving a lot of information regarding the Government activities. Even the Prime Ministers of the European countries are televising their administrative

orders. In those countries, the Prime Ministers sit in their offices from morning to evening and it is telecast. What order they are giving, to whom they are giving orders, and what decision they have taken, all these things are televised. That type of transparency should come. But clause 8 which gives the power to exempt certain things, is the most unwanted thing. Clause 8(1)(b) says:

"information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case; "

Sir, the words "investigation of an offence" should be replaced with the words "during investigation of an offence". During investigation of offence itself, a lot of custodial deaths and rapes take place. When you are giving more powers to the Police, investigation of an offence itself is secret. Then, they will handle the situation like that only. We would not be able to control the police in any way. But we have to find out some way so that they could be controlled.

Now, I would like to draw the attention of the House to clause 8(1)(c) which says:

"information, the disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities or agencies; "

This is not a country where we are having some sovereign transactions. This is a country where democratic set up is there. All the States are represented through the Rajya Sabha and also the representatives from every State come to Lok Sabha. Therefore, there should not be any secrecy among the States. There should be transparency in all transactions between the States. There should be transparency in the Central Government activities also.

Sub-clauses (d) and (e) are the source of corruption. Till such clauses are there, we cannot eradicate corruption at all; we cannot say that we have a transparent Government; we cannot say that we are working for the people; we cannot say that there is no broker; there is no *Teelka*-like scandal; there is no sycophancy; or there is no injustice. I can explain it by way of reading the sub-clause itself. It says:

"Cabinet papers, including records of deliberations of Council of Ministers, Secretaries and other officers;"

Why should this sub-clause be there? When Ministers are expressing certain views, that should be made known to the Parliament and to the public. Any opinion expressed by Secretaries and other officials in the Cabinet should also be made known to the people. Why should there be secrecy in this matter? Then only there will be no scam and sycophancy. Otherwise, a Secretary will not put forth his ideas straightway. We have seen in Tamil Nadu three Chief Secretaries being transferred within a period of 16 months. Why did it happen? It is because the Government wanted to keep secrecy. They wanted to see that Secretaries should be sycophants of the Government. This is not done. They should be very clear in expressing whatever is good for the people and good for the Government.

Similarly, sub-clause (e) is much more aggressive in denying information to the people. It reads as:

"Minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority during the decision making process prior to the executive decision or policy formulation;"

Why do you say that even legal advice or opinion should not be shown to the people? Nowadays, even legal officers are also giving misleading opinions. Or it means that you want to take away all the straightforward officers' opinions from the public. You want to see that only corrupt people are there and they can mislead the people. There should be straightforward officers. Bureaucracy should maintain its straight-forwardness and this sub-clause should be taken away.

Similarly, somewhat lesser impact is in the sub-clause relating to trade and commercial secrets. That is because in this age there is no trade secret at all now that the World Trade Organisation is there; Government has to meet certain obligations towards WTO; every information is put in the website and shown to the public. Therefore, there is no need for this sub-clause. It reads as:

"Trade or commercial secrets projected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority or would cause unfair gain or loss to any person."

This is how the Union and the State Budgets are kept secret before presentation. This is because private industrialists like Ambanis are enriching themselves by having secret information even before the Budget is presented. Many other people like Tatas and Birlas are also enriching themselves by having the inside information from the Government. The Government should be transparent and say that this is the way we are going to tax the industry and this is the way we are going to recover the dues. Actually, this type of undue enrichment and corruption can be stopped and there will not be any scam in a democracy, if the policy of transparency is pursued.

With these observations I would like to congratulate the Government for having come forward to give powers to the people to get third-party information and also for giving appellate provisions. I would like to conclude by saying that the Bill should also contain the recommendations made by various Committees, including recommendations of organisations, associations, parties, trusts, unions, and societies both private and non-governmental, in addition to those made by governmental bodies and agencies.

**प्रो. रासा सिंह रावत (अजमेर) :** सभापति महोदय, अभी-अभी कहा गया कि भारत विश्व का सबसे बड़ा लोक तंत्रीय देश है और जहां पर लोक तंत्र का तकाजा है कि जनता की सरकार जनता के लिए है और जनता द्वारा निर्वाचित है। एनडीए सरकार वास्तव में बधाई की पात्र है जिन्होंने यह सूचना की स्वतंत्रता का विधेयक सदन के अंदर प्रस्तुत किया है। हालांकि पहले की सरकारें जितनी भी रहीं, वे बातें तो दुनिया भर की करती रहीं और आज उनकी विचारधारा के मानने वाले लोग गला फाड़-फाड़ कर चिल्ला रहे हैं कि भ्रष्टाचार हो गया, स्कैम हो गया, यह स्वतंत्रता होनी चाहिए, यह स्वाधीनता होनी चाहिए। मैं उनसे पूछना चाहता हूँ कि पिछली जो उनकी सरकारें थीं, उन्होंने कितनी सूचना की स्वतंत्रता प्रदान की? कब से यह मांग रखी जा रही है? इसलिए एनडीए सरकार वास्तव में बधाई की पात्र है जिन्होंने जैसा कहा, वैसा करके दिखाया और अपने मैनीफेस्टो में लिखा कि हम जनता को सूचना की स्वतंत्रता का अधिकार देंगे और इसी बात को चरितार्थ करके दिखाया। इसके लिए माननीय मंत्री जी बधाई के पात्र हैं।

महोदय, जैसा मेरे मित्र कह रहे थे, उससे लगता है कि वे गोयबल्स थ्योरी को मानने वाले हैं, झूठ बात को बार-बार कहें, तो शायद लोग यह मानने लग जायेंगे कि इसमें वास्तव में कहीं-न-कहीं सच्चाई है। माननीय सदस्यगण सदन के अन्दर आंतरिक स्वतंत्रता का लाभ उठाकर, अभिव्यक्ति की स्वतंत्रता का लाभ उठाकर, दुनिया भर के भ्रष्टाचार, घोटाले और कई अन्य प्रकार की बातें यहां पर कह देते हैं। मैं उनको चेतावनी भरे शब्दों में कहना चाहता हूँ कि वे बाहर जाकर जनता के बीच इन बातों को कहें, तो उनको अपमानजनक स्थिति से गुजरना पड़ेगा और मानहानि के दावों का सामना करना पड़ेगा। इसलिए मैं चाहूंगा कि हम जो भी बातें कहें, उत्तरदायित्व पद का निर्वहन करते हुए कहें। यहां पर सभी माननीय सदस्य बैठे हुए हैं, उनसे यह अपेक्षा की जाती है कि वे उस प्रकार की बातों को सामान्य ढंग से न कहें। मैं एनडीए की सरकार के बारे में दावे के साथ कह सकता हूँ कि जब से यह सरकार सत्ता में आई है, उन्होंने पारदर्शिता अपनाई है। हर बात को जनता के सामने रखा है और अगर कहीं गड़बड़ी हो गई है, तो भी बात को रखते हुए कहा है कि ऐसा हो गया है और भविष्य में ऐसा नहीं होगा। भ्रष्टाचार और घोटालों के बारे में जो कहा जाता है, वह सर्वथा निराधार है। मैं समझता हूँ कि सरकार द्वारा पारदर्शिता बरती जाती है।

मैं एक और बात भी कहना चाहता हूँ। यहां विचार व्यक्त किया गया कि इसमें जुडिशियरी को भी शामिल होना चाहिए। बजट के बारे में भी बहुत सी बातें कही गईं। हमारे यहां कहा जाता है - "आचारः परमोधर्मः" - आचार परमधर्म है। सदाचार का पालन होना चाहिए। 'आचार' के पहले यदि 'अति' लगा दिया जाए, तो 'अत्याचार' बन जाता है और अत्याचार का हम सब विरोध करते हैं। **Excess of everything is bad.** महोदय, हम सूचना की स्वतंत्रता का अधिकार दे रहे हैं, लेकिन हर चीज की सीमा होती है। उसमें मर्यादा होनी चाहिए और लक्ष्मण रेखा होनी चाहिए। क्लाज-8 में बहुत सी बातों के बारे में कहा गया है। मैं समझता हूँ कि वे बहुत महत्त्वपूर्ण हैं। राष्ट्र की सुरक्षा के लिए, राष्ट्र की अखण्डता के लिए और राष्ट्र की सम्प्रभुता के लिए तथा जो बातें जनहितकारी नहीं हैं या शांति और सुशासन को बनाए रखने के लिए जिन बातों को छिपाना जरूरी है, प्रकट करना आवश्यक नहीं है, उस दिशा में कदम उठाया जाना चाहिए।

मैं आपको अपने राज्य के बारे में एक बात बताना चाहता हूँ। हमारे राजस्थान में वामपंथियों का तथाकथित एक समाजसेवी संगठन है, जिसको सेवा-निवृत्त आईएएस, श्रीमती अरुणा राय, चला रही हैं। वामपंथियों द्वारा इस संगठन का आपरेशन हो रहा है। इस संस्था में राष्ट्रीय स्तर के और दिल्ली के बड़े-से-बड़े पत्रकार हैं। ये पत्रकार राजस्थान में कई जगहों पर जाते हैं और भोले-भाले लोगों से पूछते हैं कि तुमको मजदूरी का कितना पैसा मिलता है। आप जानते हैं कि ग्रामीण विकास मंत्रालय द्वारा गांवों के अन्दर काम करवाया जाता है, जिसमें कच्चे और पक्के का 60 और 40 का रेशो होता है, यानि 60 लेबर और 40 सामग्री। गांव के लोग बैठकर तय करते हैं कि यह काम होना चाहिए और इसमें इतनी राशि सीमेंट और चूना के लिए और इतना पैसा मजदूरी के लिए दिया जाएगा। गांव सभा इसको तय करती है और काम को करने के लिए एटेंडेंस में कुछ व्यवस्था कर दी जाती है। इस बात को यदि कोई कह देता है, तो ब्लैकमेल किया जाता है। कहा जाता है कि तुम्हारे खिलाफ केस किया जाएगा, नहीं तो हमारे संगठन में शामिल हो जाओ। इस तरह से इसका दुरुपयोग कई स्थानों पर किया जा रहा है। ऐसी स्थिति के अन्दर ग्राम सभा के हितों के लिए कोई काम किया जाता है और रसीदें वगैरह बनाई जाती है तथा जो वास्तविक स्थिति आपके सामने रखी, उस स्थिति के अन्दर इस प्रकार के लोगों का सामना करना पड़ता है। इसलिए मैं कहना चाहता हूँ कि ओपननेस, जवाबदेही, पारदर्शिता और संवेदनशीलता - इन चारों चीजों का दिग्दर्शन इस बिल के माध्यम से किया गया है। **टीई** (व्यवधान) जो लोग कहते हैं कि सरकार के समर्थक थे, पोकर थे, उस समय उन्होंने इस बिल को लाने की हिम्मत नहीं की, लेकिन उन्होंने कानून को बदल दिया। बड़े-से-बड़ा कानून बदल दिया। लेकिन यह सरकार कम से कम जनता के प्रति जवाबदेह है। इसके साथ ही मैं यह भी कहना चाहता हूँ कि अधिकारियों पर भी थोड़ा अंकुश लगना चाहिए। कार्मिक मंत्री महोदय, श्रीमती वसुन्धरा राजे जी से कहना चाहता हूँ कि जो बड़े-बड़े अधिकारी हैं, वे आफिस के सिक्रेट्स के नाम पर सार्वजनिक हित की बातें नहीं बताते हैं।

वे बातें जनहित के अंदर अगर ये बता दें तो ठीक रहेगा। आपने मुझे बोलने का अवसर दिया, इसके लिए मैं आपका आभारी हूँ। मैं पुनः इस बिल का पुरजोर समर्थन करता हूँ और जो बहुत समय से चिर प्रतीक्षित सूचना प्राप्ति का अधिकार इस सरकार ने इस विधेयक के माध्यम से चरितार्थ करके दिखाया है, उसके लिए यह बधाई के पात्र हैं।

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I strongly support the idea of freedom to information.



MR. CHAIRMAN : Kindly be brief.

SHRI VARKALA RADHAKRISHNAN: Yes, I shall be brief.

But I cannot support all the provisions of the Bill. I am constrained to take such a position. Now, transparency in administration is the cornerstone of Parliamentary democracy. It is because it will help preventing corruption to a large extent. That is why I support the Bill. But unfortunately the provisions of the Bill will not lead to such a conclusion. I shall explain my position in a few words. In clause 5 of the Bill, there is a provision for appointment of a Public Relations Officer. The Public Relations Officer is the cornerstone of this Bill. It is through him that the information is to be obtained. That is why I say that without the Public Information Officer, this Bill becomes the nullity. The Public Information Officer is given duties also in the Bill.

I would draw the attention of the hon. Minister to clause 6 of the Bill. I want to have certain information and I am giving a requisition to him. On receipt of the requisition, the Information Officer is asked to give me the information. If he refuses to give the information, he will have to state the reasons as to why he is refusing to give the information. I am filing the request to the Information Officer, but he is not giving me any reply. He is keeping silent. Under the pressure of the officer concerned who is working under him or due to some reasons known only to him, the Information Officer is not providing me the information which I require. What can be done? There is no provision in this statute to make the Information Officer responsible. Suppose, he is not giving the reply at all, what is the remedy? No remedy is available in this statute. Then, what is the meaning of this Bill? He is not giving me any reply. What is the remedy? We have to have penal provisions in the statute itself. Statutory protection is even given to the officers. Statutory protection is given to the officers for their actions. If anybody is acting in good faith, under the provisions of this Act, no court can have jurisdiction to entertain any case against him. Even that provision is there. The provision of 'acting in good faith' is there in the Bill. But there is no provision for violation. How can you compel him? In our land there is a new law, that is Public Interest Litigation law.

Any person can file a case before a High Court or the Supreme Court if the person, who is responsible to give a reply, is punished. How can action be taken against the Information Officer? Is there any provision in the statute to make him liable for giving me information? Without it, what is the essence of this Bill? How can we get the information? Madam, kindly tell me about this. I am subject to correction.

Next, I am giving an application. There is no responsibility and no comments are made. The officer is keeping silence. How can I compel him to give it? An appeal will lie if only an order is issued. I can make an appeal. Of course, the provision for a second appeal is also there. I understand it. But without an order, how can I make an appeal? For example, the person concerned has not acted. I cannot appeal to anybody because there is no order. He is not giving me the required reply. Who will compel him to give me a reply and the information? I would request the hon. Minister to look into that matter. I have gone through the Bill throughout. Action made in good faith is protected. But there is no penal provision.

MR. CHAIRMAN : Kindly conclude now.

SHRI VARKALA RADHAKRISHNAN : I am concluding. I am coming to that. This is one aspect.

Then, I come to exemptions. The exemptions in Clause 8 are also not good. There are opinions given. Advice is given. Once a decision is taken on the basis of that advice or opinion, why should the information not be given? Legal opinion is given on the basis of legal knowledge. Other advices are tendered on the basis of the expert knowledge. After a decision is taken, there is no harm in giving that information to the person concerned who is applying for it. But that also is barred here. So, Clause 8 will have to be amended to make it more broader. Now, it is restrictive in the sense that it covers a whole area and the balance will be very little. If I may say so, the Bill itself appears as an eye-wash. When we pass the Freedom of Information Bill, we should not make it restrictive. We should not make it arbitrary. It must suit the norms of democracy. So, my humble opinion is that the Government should make it broader. It should not be covering everybody. You should not be giving the bureaucracy all that is required.

I remember one thing. Take the 1923 Official Secrets Act. Under it, some of our best journalists have been punished. There is a brand in journalism called Investigative Journalism. The journalists act like crime investigators. They pierce through the files, collect the information and publish it in the newspapers in public interest. But the poor journalist is put behind the bars under the provisions of the Official Secrets Act of 1923. That Act was enacted by the colonial rulers. But we are living in a free India. It will suit us. Fortunately, when this Act comes into effect, that will cease to operate.

MR. CHAIRMAN: Kindly conclude now. I am going to call Shri Shivraj Patil to speak. I will entertain no more requests. Already, ten minutes are over.

SHRI VARKALA RADHAKRISHNAN : I am concluding it. With these observations, I would request the hon. Minister to make it more comprehensive and impressive. There must be a provision for enforcement of this law.

With these words, I conclude.

SHRI SHIVRAJ V. PATIL (LATUR): Sir, I thank you very much for giving me this opportunity to speak on this Bill. I have just one question to put so that there should not remain any doubt in the minds of the Members and the people outside as to how this law can be applicable to certain kinds of activities in the country.

**17.00 hrs.**

Now, Clause 8 (1) (f) of the Bill says:

"Notwithstanding anything hereinbefore contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:-

trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affects the legitimate economic and commercial interests or the competitive position of a public authority; or would cause unfair gain or loss to any person;"

The banking law provides that the names of the persons who have not paid back the money which they have taken from the bank should not be disclosed. So, will this clause be applicable to that law and banking activities also? Now it has been disclosed by the Government that nearly Rs. 1,10,000 crore of NPAs are there and the names of the persons who are responsible for these NPAs are not to be disclosed unless and until a case is filed in a court of law. This means it is giving unfair protection to those people who have taken money from the banks. In my opinion, if we read these provisions very carefully, I think, they would be protected and their names would not be given to the people at large. Now, is this interpretation of mine correct? If this interpretation of mine is not correct and if the hon. Minister says on the floor of the House that this is not the correct interpretation, the position of this law will be completely different. I am seeking just this information from the hon. Minister.

SHRI K. YERRANNAIDU (SRIKAKULAM): Mr. Chairman, Sir, I thank you for the opportunity given to me to participate in this debate. At last this Bill has come up for consideration and passing in this House. I strongly support the Freedom of Information Bill, 2000. After going through all the provisions of this Bill, I think this Bill is very weak. After reading the title of this Bill, everybody feels that we would get all types of information. But under Clause 8 of this Bill, we have restricted many types of information from being given to the public.

There is a provision for protection of action taken in good faith. Suppose an officer has committed some mistake, then he will say that he did not give the information because he acted in good faith. In case where such an officer denies giving information intentionally, there is no penal provision in this Bill. There are penal provisions even in small laws, but there is no penal provision in this Bill and so without any penal provision in this Bill, I feel, this Bill will not produce the desired results.

Sir, everybody feels that openness and transparency are cornerstones of democracy. In Andhra Pradesh, things have leaked out to the Press even before the presentation of the Budget. So, since last year we have been releasing the Budget and asking the opinion of the common people, traders, industrialists, CII, etc. In this way we are preparing the Budget now. We feel that, after 52 years of democracy, there is no secrecy in this country. Many people are taking xerox copies of notings in the files and such other things. But now we are restricting so much of information under Clause 8 of this Bill.

Sir, this Bill has come up for discussion in this House after two years, but we are restricting many types of information under this Bill. Before going through the provisions of this Bill, I also thought that I could get each and every type of information after the passing of this Bill. So, in my view, there is a need for penal provision in this Bill. In a democracy, it is the people who have the power to elect a Government. We have to maintain openness and transparency. If any officer denies giving any information intentionally, then he should be punished and there should be a provision for that purpose, because we are living in a democratic country.

Last time, Shri Priya Ranjan Dasmunsi raised a crucial issue.

Then, Shri Pramod Mahajan asked me, "Wherefrom would you get the paper?" I received the paper. How has he got it from the Cabinet Secretariat? Everything is coming out. There is no meaning if everything is restricted under article 8. 'Transparency' means transparency. That is why since November, the Government of Andhra Pradesh is putting notings and recommendations in the files on the Internet. Even the notings should go to the Member. What

is wrong in that?

If we want to have transparency and openness, then the people should know about the recommendations made by the Ministers and the Secretaries. They should judge the performance of the Government. After five years, they can decide whether the Government had sufficient transparency and openness or not. But we are keeping the notings and all such things in the dark room. In the name of right to information, is this Government giving the right to information? I doubt.

I strongly support the Bill relating to the right to information. But all these clauses are very weak. The purpose would not be served even after passing this Bill. When the people elect us as Members in future, we would come forward with amendments. Instead of bringing forward the amendments in future, it would be better to think over it now. We can postpone it for a day. You can sit with all the parties so that something is included. I am not for changing everything. I am making a humble request. Madam knows everything. 'Transparency' means that we have to have transparency in full. This Government is a Government of the people. We have to give correct openness and transparency to the people of this country. Every day, the Members of Parliament come across everything like notings and records. Even the newspapers, the electronic media and the print media are bringing out all the secrets. But by legislation, we are keeping it in the dark room. So, I would like to have answers to all these questions. We are witnessing documents, records and notings on the floor of the House. Where is the secrecy?

After 53 years of Independence, article 19(1) has been enshrined in the Constitution to give freedom of right to information. That is why I make a humble request to this Government. The Government should get good name. If we are all perfect, the Bill should also be perfect. By this Act, we have to get the desired results. If the people have full information, transparency would increase. The Government may accept some of my suggestions in the interest of openness and transparency in the country to improve the image of this Government.

SHRIMATI VASUNDHARA RAJE (THE MINISTER OF STATE OF THE MINISTRY OF SMALL SCALE INDUSTRIES, MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS, MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE DEPARTMENTS OF ATOMIC ENERGY AND SPACE ): Sir, I thank you very much. The idea of this Bill basically is to promote openness, transparency and accountability, as the hon. Member has said, in the administration and to ensure a greater participation of the people in decision-making, and also to maintain consistency with the world-wide trend in democratic countries to have a legislation for giving the citizens the right of access to information, to transactions of public authorities.

We also want to bring to fruition the promises which have been made by not just our Government but by the United Front Government in its Common Minimum Programme, by the Indian National Congress in its manifesto for the Lok Sabha elections, and also our Government in the National Agenda for Governance, 1988 and our manifesto in 1999.

A lot of interesting points have come up. I do believe that a democracy really cannot function unless the people are permitted to know what the Government is doing. It is a question of power. We all know about those who have the information and wield the real power. But in a democracy such as ours, power and information have to be shared.

I agree with all Members who have participated in the debate today that this is absolutely essential. So, the contemplation of the Freedom of Information Act is only a step in the direction of sharing information and indirectly the power with the people to whom it rightly belongs.

I want to thank straightaway all the Members who have taken part in this debate. I also want to thank actually the Members of the Parliamentary Standing Committee who have all worked very hard to bring forward this Bill.

This has been debated and discussed at great length and what you see just now is the result of their labour.

I have a lot of suggestions that have come up before me; I will go through them very quickly. Basically, Shri Chennithala and Shri Raghuvansh Prasad Singh spoke on the same point of right to information, why it is not called the Right to Information and why it is called Freedom of Information. This is already enshrined in article 19 of the Constitution. So the present enactment only helps the Act. Various countries have also called it along similar lines.

It has been asked why information should not be denied even to non-citizens. A suggestion was given to the Parliamentary Standing Committee and in our comment, DOPT had also indicated its willingness to accept the suggestion. In the deliberations, a Member suggested that the right should be restricted to the citizens and this view was accepted by the Parliamentary Standing Committee. No recommendation was accordingly made on the issue

by the Parliamentary Standing Committee.

Then, there was a point on the Public Information Officer that he should be given some part on a clearly delegated manner. This aspect can and will be taken care of by the rules itself. When we say compulsory and mandatory disclosure of the information on health and public safety, this will basically be taken care of by the relevance of the provisions in the proposed Bill and the concerned Act with the specific Ministries, whether it is the Ministry of Health or the Ministry of Family Welfare, who are administratively concerned with the matter.

Where life and liberty is concerned, there is an existing provision that within 48 hours the information should be provided. This has been incorporated in the Parliamentary Standing Committee's recommendations. This should prove, we think, adequate.

Shri Kaaria supported the Bill and I thank him very much for that.

Shri Somnath Chatterjee spoke of the historical background with reference to the role of various Governments. He also tried to explain that the list of exemptions has been too long. The H.D. Shourie Committee has felt that there should be some 14 restrictions, but we have limited these restrictions to even less, about 11. If you compare them with other countries, whatever restrictions we have are incorporated there.

It was also asked as to who or of what level the Public Information Officer should be. Basically, we have gone by all the precedents and such things are very small and they are going to be incorporated in this part of the Act.

Then we have talked about joint private organisations. The basic premise is to disclose information which is available with public authorities and the question of including the private bodies was never considered and was never a part of the mandate.

SHRI SOMNATH CHATTERJEE : When it was thought of, at that time there was no Ministry of Disinvestment! The Minister has got rid of all these public sector undertakings. Now no information can be obtained from them.

SHRIMATI VASUNDHARA RAJE: With regard to protection to bureaucracy and transparency, these amendments are basically on the recommendations of the Parliamentary Standing Committee, the opinion of the Ministry as also of the States as well as the Union Territories.

SHRI SOMNATH CHATTERJEE : But the hon. Minister did not thank me for supporting the Bill.

SHRIMATI VASUNDHARA RAJE: I thank you also for supporting the Bill.

Shri Mahtab came up with a few interesting suggestions with basically a backdrop of the legislation of other countries. He has also mentioned that there was no legislation basically in the UK. This legislation has now come about in the year 2000. He has also spoken about various amendments, specially the exemption which included the Lakshdweep Police. Basically, this is the recommendation of the UT Administration and it is also supported by the Ministry of Home Affairs.

Shri Dasmunsi brought about quite a few points. He was quoting from para 7(i) of the report. These are suggestions by various organisations and individuals.

These were not the recommendations of the Parliamentary Standing Committee. He also spoke about section 16(1) of the Bill. Section 16(1) is a part of the draft Bill which was deliberated by three GOM and accepted as such. The Parliamentary Standing Committee also agreed in its incorporation. The important legislation of the countries like Australia also have similar provisions.

Under section 8(1), security-related matters have been exempted from the disclosure. The Bill once enacted will always be modified subsequently depending on our experience with its implementation. The list of exemptions again is too long. I have just spoken about that. I would like to thank Shri Dasmunsi also very much for having supported the Bill, though he is not here now.

Shri Anadi Sahu defended the Act. He said that basically the information should be disclosed. We will. And then, he talked about the competent authority. As far as the competent authority is concerned, it was said that basically the Chairperson of Rajya Sabha, also the Speaker of Lok Sabha and various others who come up within the courts would have also to come through the Table of the House. That would not be the right thing because it would actually have to divide the Legislature, the Executive and the Judiciary from each other. That would be important.

Shri Pandian supported us and I want to thank him very much.

Dr. Raghuvansh Prasad Singh spoke about the right of information. I have already mentioned about that before this. Basically he said that the Bill does not address the issues of poverty alleviation. The Act extends to all parts of India



and people have the right basically to call for this information.

About the State Government, he asked, what about the legislation of the State Government? When the Central legislation and State legislation are in operation simultaneously on the same subject or areas of influence, the Central legislation will prevail. In the case of a conflict between the relevant provisions of the two Acts, the State Government, who in the meanwhile have enacted their own legislation, shall be requested to repeal the relevant provisions in their respective Act in order to avoid the overlapping or inconsistencies between the Central and State legislation.

Shri Nachiappan has also mentioned about the exemptions. He asked, what about the Judiciary? Basically, subject to exemptions, the Judiciary will also have to respond to the dictates of the right of information. I would like to thank him also for having supported us. The period of 30 days for giving information, he said, is too long. This is the recommendation made by GOM and the Parliamentary Standing Committee has also said that a similar time period should be followed. In any case, there will be an internal deliberative process and this will be a continual one.

As far as Shri Rawat is concerned, I would also like to thank Shri Rawat. He was also very supportive of us.

Shri Varkala Radhakrishnan talked about the penalty provisions and also talked about the exemptions. Basically, under section 5, appointment of the Public Information Officer, who is the cornerstone of the Bill and without him the Bill is a nullity, there is a remedy in that. There is a departmental appellate mechanism which can be approached within 30 days, and you can also go for a writ to the jurisdiction of the High Court and the Supreme Court. I also want to thank him very much for having taken a lot of trouble to participate in this discussion and also having supported us.

As far as Shri Patil is concerned, he asked, how would the law be applicable to various activities under section 8(1)(f) of the Trade and Commercial Secrets Act? Basically, Sir, under the Information Act, whatever comes within this, overrides all the contrary provisions in the other Acts subject to exemption of sections 8 and 9 in the Act.

Though it is a specific issue, it will be decided based on the exact circumstances of the case. So, the hypothetical situation cannot really be anticipated with exactitude in advance.

At the end of all these things, I would just like to say, thank you very much for everybody here who participated in the discussion. The legislation on the freedom of information has received the attention of various Governments and working groups. The Bill had been introduced in the Lok Sabha on the 25<sup>th</sup> of July, 2000. Pending therein, it was referred to the Departmentally-related Parliamentary Standing Committee on Home Affairs for examination and report. The Report of the Standing Committee had been presented to both the Houses on the 25<sup>th</sup> of July, 2001. The recommendations, which were made by the Parliamentary Standing Committee, were examined, and the Bill in its present form has been debated by this august House. It is really a process and an outcome of very lengthy deliberation. I just want to thank everybody for their very, very precious views and suggestions and also their kind co-operation, which they have given during the discussion, and, I hope, for the smooth passage of this Bill.

SHRI SHIVRAJ V. PATIL : I would like to congratulate you for moving this Bill. I would like to congratulate the Government also for moving this Bill. But the doubt which I entertained, needs to be explained. We have financial institutions and we have public banks. From financial institutions and public banks, lakhs of crores of rupees are given to the people who are not returning the funds which are given to them. Now, it is a part of the Government's activity also. If a citizen of India, to whom you have given the freedom of information, is asking the names of the persons and the amount of the money given to the persons from these financial institutions and banks, and if you are not giving this information to the individual, how is it that you are going to protect the interest of the country, the financial institutions, the Government and the people at large? Why that information should not be given? Now, if you make a law in this fashion, under which the information would not be given, is it going to help the Government? Is it going to help the people? Why are you not giving this information? Now, this law will be used against the Ministers, against the officers and against those who are working in the Government. But why should this law be not applicable to the public sector undertakings, to the banks and to the financial institutions from where lakhs and crores of rupees are taken and not returned? Now, we know this. The Finance Minister himself says that this is a loot. This is not a credit given. This is not a debt given. This is a loot, and that information you do not want to disclose to the people at large. Why? What is withholding the Government in this respect? Why is it not given?

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): Can I intervene? I totally accept the concern expressed by hon. Shri Shivraj V. Patil that the names of the persons, who have taken huge loans from the banks, are not disclosed under a law. But at this point of time, we, as a Parliament or Government, can think basically of that law which is giving protection to the money-lenders against the disclosure of their names. At this juncture, my request would be that



this is a beginning. Instead of going into that, overriding that law by this Act, let us take a considered view at some different time on that law. Though the issue is very important, we can take care of that issue at that point of time. When we were in the Opposition also, we fought for it, saying that at least at certain levels if somebody was given Rs.10 crore, the name should be disclosed.

I think I will communicate his feelings to the original law maker of that law and see that this secrecy should not help the looters of public financial institutions. But let us not, at this juncture, raise this issue, though I accept it.

SHRI SOMNATH CHATTERJEE : It has taken two years and 10 months to pass this Bill. The next amendment will come in five years.

MR. CHAIRMAN : I shall now put the Amendment No 1 moved by Shri Varkala Radhakrishnan to vote.

*The motion was put and negatived.*

MR. CHAIRMAN: The question is:

"That the Bill to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto, be taken into consideration."

*The motion was adopted.*

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

*Clause 2 - Definitions*

*Amendment made:*

*Page 2,-*

*after line 6, insertâ€œ*

*"(iii) by the Union territory, the Central Government." (3)*

*Page 2,--*

*after line 14, insert-*

"(v) the administrator appointed under article 239 of the Constitution." (4)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 2, as amended, was added to the Bill.*

*Clause 3 was added to the Bill.*

***Clause 4 - Obligation on public authorities***

***Amendment made:-***

*Page 3, line 20,-*

*for "maintenance of democratic principles",*

*substitute "natural justice and promotion of democratic principles." (5)*

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

*Clause 4, as amended, was added to the Bill.*

*Clauses 5 and 6 were added to the Bill.*

*Clause 7 – Disposal of requests*

*Amendment made:*

*Page 3, -*

after line 38, insert-

*"Provided that where the information sought for concerns the life and liberty of a person, the same should be provided within forty-eight hours of the receipt of the request." (6)*

Page 3, line 39,-

after "Provided", insert –

"further" (7)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 7, as amended, stand part of the Bill.

*The motion was adopted.*

*Clause 7, as amended, was added to the Bill.*

#### **Clause 8 - Exemption form disclosure of information**

*Amendment made:*

Page 4, line 34,-

for "Any information relating to any occurrence"

*substitute "Subject to sub-section 1(a), any information relating to any occurrence." (8)*

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 8, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 8, as amended, was added to the Bill.*

#### **Clause 9 – Grounds for refusal to access in certain cases**

*Amendment made:*

Page 4, line 44,-

for "disproportionate."

substitute "unreasonable" (9)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 9, as amended, stand part of the Bill.

*The motion was adopted.*

Clause 9, as amended, was added to the Bill.

### **Clause 10 - Severability**

*Amendment made:*

Page 5, line 10,-

after "10", insert-

"(1)" (10)

Page 5,-

after line 14, insert -

*"(2) Where access is granted to a part of the record in accordance with sub-section (1), the person making the request shall be informed,-*

- a. that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and
- b. of the provisions of the Act under which the severed part is exempted from disclosure." (11)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 10, as amended, stand part of the Bill."



*The motion was adopted.*

*Clause 10, as amended, was added to the Bill.*

### **Clause 11 – Third party information**

*Amendment made:*

*Page 5,-*

*for lines 15 to 22, substitute*

*Third party "11. (1) Where a public authority intends to disclose*

*Information any information or record, or part thereof, on a request*

*made under this Act which relates to, or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within twenty-five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof:*

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is given by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within twenty days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within sixty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2) make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal against the decision under section 12." (12)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That clause 11, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 11, as amended was added to the Bill.*

*Clauses 12 and 13 were added to the Bill.*

**Clause 14 - Act to have overriding effect**

*Amendment made:*

**Page 5,-s**

*for lines 47 to 49 substitute--*

Act to have "14. The provisions of this Act shall have effect overriding notwithstanding anything inconsistent therewith contained effect in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act." (13)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN : The question is:

"That Clause 14, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 14, as amended, was added to the Bill.*

*Clause 15 was added to the Bill.*

**Clause 16 – Act not to apply to certain organisations**

*Amendment made:*

**Page 6,-**

*for lines 4 to 17, substitute--*

**Act not to "16.(1) Nothing contained in this Act shall apply to the apply to intelligence and security organisations, specified in the certain Schedule, being organization established by the Central organisation Government or any information furnished by such organizations to that Government.**

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organization established by that Government or omitting therefrom any organization already specified therein and on the publication of such notification, such organization shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2), shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organizations which may be specified, by a notification in the Official Gazette, by a State Government from time to time.

(5) Every notification issued under sub-section (4), shall be laid before the State-Legislature". (14)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is :

"That Clause 16, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 16, as amended, was added to the Bill.*

*Clauses 17 to 21 were added to the Bill.*

### **The Schedule**

*Amendment made:*

Page 7,-

*for lines 23 to 38, substitute--*

"THE SCHEDULE

*(See section 16)*

INTELLIGENCE AND SECURITY ORGANSIATIONS  
ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.

3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Center.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Directorate of Vigilance including Anti Corruption Branch, National Capital Territory of Delhi.
19. Special Branch, Lakshadweep Police. (15)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is:

"That the Schedule, as amended, stand part of the Bill."

*The motion was adopted.*

*The Schedule, as amended, was added to the Bill.*

#### **Clause 1 – Short title, extent and commencement**

*Amendment made:*

Page 1, line 4,-

for "2000"

substitute "2002" (2)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is :

"That Clause 1, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

**Enacting Formula**

*Amendment made:*

Page 1, line 1,-

for "Fifty-first"

substitute "Fifty-third" (1)

(Shrimati Vasundhara Raje)

MR. CHAIRMAN: The question is :

"That the Enacting Formula, as amended, stand part of the Bill."

*The motion was adopted.*

*The Enacting formula, as amended, was added to the Bill.*

*The Title was added to the Bill.*

SHRIMATI VASUNDHARA RAJE: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

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