

>

Title: Introduction of Patents (Amendment) Bill to further amend the Patents Act, 1970.

12.05 hrs.

PATENTS (AMENDMENT) BILL*

THE MINISTER OF COMMERCE & INDUSTRY (SHRI KAMAL NATH): Sir, I beg to move for leave to introduce a Bill further to amend the Patents Act, 1970.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill further to amend the Patents Act, 1970."

â€¦ (Interruptions)

MR. SPEAKER: Just a minute. Do not be impatient. I have got certain notices. I will only find out whether you have mentioned reasons for opposition because under the rules you have to mention the grounds of opposition.

Shri Suresh Kurup.

SHRI SURESH KURUP (KOTTAYAM): This Bill surrenders the interests of the people of our country. During the last Session, enquiries were made on the floor of the House as to whether the Government intends to bring an amendment to the Patents Act. Without responding to those enquiries, immediately after that Session was over, behind the back of this House, this Ordinance was promulgated. ... (Interruptions)

MR. SPEAKER: This is not correct.

â€¦ (Interruptions)

SHRI SURESH KURUP : This itself is against the spirit of our Constitution and the democratic spirit of our country.

Sir, our patent law was considered as one of the model patents laws by all the developing countries in the world. Our patent law did not allow monopoly in the area of drugs and agro-chemicalsâ€¦ (Interruptions)

MR. SPEAKER: Please do not go into details.

SHRI SURESH KURUP: Let me formulate my point.

MR. SPEAKER: It has to be constitutional.

*Published in the Gazette of India, Extraordinary, Part-II, Section-2 dated 18.03.2005

SHRI SURESH KURUP : As a result, the Indian drug industry developed to become the strongest and most self-reliant industry in the developing world. We should be proud that some of our pharmaceutical companies developed the cheapest anti-AIDS drugs in the world. Once this Bill becomes a law, our pharmaceutical companies will be at the mercy of the multi-national companies in the world. ... (Interruptions)

MR. SPEAKER: Those are not the grounds.

â€¦ (Interruptions)

SHRI SURESH KURUP : We will be prevented from developing process of these patented drugs. This prevents the common man of our country easy access to the life-saving drugs. The only argument put forward by the Government is about the drugs.... (Interruptions)

MR. SPEAKER: Please sit down when I am on my legs. I only agree with you that certain questions do arise. But, here we are discussing at a stage where those questions are not relevant.

â€¦ (Interruptions)

MR. SPEAKER: I do not know why is this impatience. At this stage, the only question is of constitutionality. You can keep all your options at the time of discussion on the Bill. You have mentioned the reasons.

â€¦ (Interruptions)

MR. SPEAKER: Once I allow the breach, every time it will be continued.

â€¦ (Interruptions)

SHRI SURESH KURUP : This prevents our common man access to the life-saving drugs. As you very well know, the right to medical careâ€¦ (Interruptions)

MR. SPEAKER: Sitting here, I know nothing.

â€¦ (Interruptions)

SHRI SURESH KURUP : The right to medical care including the right to access to life-saving drugs comes within the ambit of Article 21 of the Constitution of India. This House has no competence... (Interruptions)

MR. SPEAKER: Let us see what ultimate form it takes.

SHRI SURESH KURUP : This House has no legislative competence to enact a law which affects the Fundamental Rights of the people of our country. By surrendering our rights to easy and cheap access to the life-saving drugs, we are throwing our citizens at the mercy of the multi-nationals in the world thereby compromising the sovereignty of our country. This is against the legislative competence.... (Interruptions)

MR. SPEAKER: You have made your point very well.

SHRI SURESH KURUP : This Bill cuts at the root of the Fundamental Rights of the citizens of our country and it is against the legislative competence of this House.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): I am not concerned with the contents of the Bill. I am only concerned about the way in which it is introduced. Here is a case where it is an admitted fact that the Government was facing this situation for long. There was the necessity for the Government to amend the patents law. That is an admitted fact. If the necessity was there, there would have been ample opportunities available with the Government to move the normal course by bringing a Bill so that we get an opportunity of expressing ourselves on the Bill. Here is a case where they have resorted to the emergency provisions in the Constitution. Article 123 is being resorted to. This is something more or less committing a fraud on the constitutional provisions. The Constitution is exclusively clear that whenever there is an emergent situation, the Government will resort to Article 123. Here is a case where there is no emergency. The World Trade Agreement was there in existence. According to the Government also, they have a commitment. If that be the case, why should they resort to Ordinance? I am opposed to ordinance. When an ordinance is there and a Bill to replace that Ordinance is brought before the House, we are denied our opportunity of expressing our free opinion on a particular issue.

When an Ordinance is there, our right is curtailed, in the sense that we are supporting the Government, but we are not free to express our opinion. Here, we are bound by the incompetence of the legislation... (Interruptions)

MR. SPEAKER: Of course, you are entitled to make your statement.

â€¦ (Interruptions)

MR. SPEAKER: Of course, you are entitled to speak on the Bill.

â€¦ (Interruptions)

SHRI VARKALA RADHAKRISHNAN : I hope, the Speaker, who is the champion of the legislative powersâ€¦

MR. SPEAKER: I am no champion. I have given you enough time. Please take your seat now.

SHRI VARKALA RADHAKRISHNAN : So, my humble submission is that the legislative prerogative power should not be curtailed... (Interruptions)

MR. SPEAKER: Now, Shri M.P. Veerendra Kumar.

â€¦ (Interruptions)

SHRI VARKALA RADHAKRISHNAN : I am opposed to this Ordinance. I am opposing this Ordinance. If the Government is *bona fide*, they could have brought the Bill in a normal way. But that has not been done. Therefore, I strongly oppose the introduction of this Bill.

MR. SPEAKER: You are entitled to oppose it.

SHRI M.P. VEERENDRA KUMAR (CALICUT): Hon. Speaker, Sir, it is true that under article 103, the Government can bring an Ordinance. They are bringing out the Bill to replace the Ordinance. But my information is that they had to bring it now and Government knew in 1994 when they signed the Marrakech Agreement. All these year, they waited, and the first and second amendments came. In the JPC also, there was a discussion. So many things happened.

Here, up to 23rd December, 2004, the Parliament was in Session. But they brought forth this Ordinance only on the 26th December, 2004, the same day when Tsunami hit us. Is it brought on that day just to avoid a discussion on a vital subject like this? This will affect not only our pharmaceutical industry but also the life patenting and other things.

My point is that by bringing out the legislation in this regard, why is the Government denying us the opportunity to discuss it and formulate a view?

There is one more point. Should the Government consider the Parliament as an informing body, Parliament is a legislative body? Why Government bring an ordinance which is a committed legislation when the Session was on and inform the Parliament. I am sure, when the hon. Minister makes an explanatory note, he would give us all the information as to what happened before, with the WTO and

will seriously consider the views raised by them during the discussion. The issue now is one of...(Interruptions)

MR. SPEAKER: Only Hon. Minister's statement will go on record.

*(Interruptions)**

SHRI KAMAL NATH: Sir, the issue here is of legislative competence. The issue is not of substantive portion of the Bill. At no point, questions like, whether this has the legislative competence, have been raised. No point towards the legislative competence has been made out by any of the Members. There are only substantive points as to whether it meets this or that requirement with regard to the pharmaceutical industry or with regard to the pricing. I would be happy to answer them during the course of the debate. I am certain that I would be able to convince the hon. Members.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Patents Act, 1970. "

The motion was adopted.

MR. SPEAKER: The Minister may now introduce the Bill.

SHRI KAMAL NATH: Sir, I introduce the Bill

(Interruptions)

SEVERAL HON. MEMBERS: No, No, Sir.

(Interruptions)

* Not Recorded.