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Title: Discussion on the motion for consideration of the Payment and Settlement Systems Bill, 2006 by Shri P. Chidambaram, (Discussion Not Concluded).

MR. CHAIRMAN: Now the House will take up Item No.22â€”Payment and Settlement Systems Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, this is a very important Bill which is to become the backbone of our economic activities.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): All Bills are important.

SHRI VARKALA RADHAKRISHNAN : Payment and Settlement System is to become the backbone or even the foundation of all our economic activities. My humble request is that the discussion may be had on a fresh day and on a fresh basis.

SHRI P. CHIDAMBARAM: No, we have agreed that the discussion on the Bill will start and the discussion will continue. It will be continued next time.

MR. CHAIRMAN: Yes, the hon. Minister.

SHRI P. CHIDAMBARAM : I beg to move:

"That the Bill to provide for the regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority for that purpose and for matters connected therewith or incidental thereto, be taken into consideration."[\[m26\]](#)

Sir, normally I would make a very short speech introducing the Bill. But since a Member as senior as Shri Radhakrishnan has raised some apprehensions, it is my duty to explain the Bill so that he will, at the end of my explanation and after reflecting over it, come to the conclusion that these apprehensions are completely baseless and what we are intending to do is something very necessary, very emergent and is being done on the advice of the Reserve Bank of India.

Sir, let me take a few minutes to explain the history of the payment system in India. Payment systems in India, hitherto, have been only cheque-clearing. Cheques were presented in one bank, payable on another bank and the cheque-clearing system was largely a paper-based system. Cheques would be physically carried to a central place, banks will exchange the cheques and payment will be netted out. Over the years, much has changed. Technology has changed. New products have come and the payment system has become a very elaborate, very complex system.

For example, the Reserve Bank of India currently manages what is called, the real-time gross settlement system. The Reserve Bank of India provides settlement services in only 14 Centres of India where the RBI has got its offices. There are 1,068 clearing houses which are owned by either the State Bank of India or one of the public sector banks or a group of public sector banks. These 1,068 clearing houses also provide payment services.

SHRI VARKALA RADHAKRISHNAN : The stock exchanges will be excluded. ...(*Interruptions*)

SHRI P. CHIDAMBARAM : Kindly listen Shri Radhakrishnan. You must listen. I am explaining it. Please bear with me.

Then, there is not only cheque-clearing, now, Government securities are bought and sold. They have to be settled. There are now foreign exchange transactions. Foreign exchange is bought and sold. They have to be settled. There is already a Clearing Corporation of India which is being set up by the banks and the financial institutions as a central counterparty and a specialised clearing organization for inter-bank Government securities and foreign exchange transactions.

Finally, thanks to technology, there is now electronic clearing, electronic fund transfer and more increasingly credit card payment. For example, we have got credit cards, debit cards issued by a large number of authorities. The best known are – Visa and MasterCard which are co-branded with banks. We have, therefore, like in any other country, a multiplicity of payment systems. This is what I want you to understand – a multiplicity of payment systems. We have come a long way from only cheque-clearing. Cheque-clearing was what was prevalent in this country, say up to the middle of 1980s. Today we have a multiplicity of payment systems.

Believe me, there is no law regulating these payment systems today. All this is by a contractual arrangements. A group of banks or the State Bank of India sets up a payment system; any bank which wants to transact in that payment system enters into a contractual arrangement and for some fees which are levied the contractor provides the services.

India is a part of the Bank of International Settlement. Now, the Bank of International Settlement is an international body. We are a part of that body and we are a major country because large transactions take place throughout the country. They have formulated, what are called, core principles of a payment system. Now these core principles of a payment system are ten in number. I will not read all ten; I will, in my final reply. The first of the principle is – the payment system should have a well-founded legal basis under all relevant jurisdictions.

There must be a legislature-made law to support a payment system. Therefore, a few years ago the Reserve Bank of India (RBI) drafted a law, and said that we are now part of the BIS and we must have a separate law to regulate all the payment systems. There must be a regulator; there must be a licencing authority; there must be a dispute resolution mechanism; there must be an appellate authority; and we must put in place a regulatory system.

After the RBI prepared a draft law, the RBI decided that we must appoint an Expert Committee to study the matter comprehensively; look into practices that are prevalent in all the countries of the world, especially, the developed economies; and suggest a draft of a law to be made by the Parliament. Therefore, the RBI appointed the R. H. Patil Committee.

The R. H. Patil Committee went into the matter, and one of the terms of reference was to suggest appropriate legislative changes for regulation of payment systems. The Committee made certain recommendations, and I will read only the major recommendations of the Committee. Firstly, that the proposed legislation should conform fully to the core principles enunciated for the Bank for International Settlements (BIS). I have already read out the first principle out of the 10 principles. Secondly, that there is a need for a well-founded, clear and transparent legal basis for security settlement systems. Thirdly, that the proposed legislation should take into account the international position with regard to law on regulation and supervision of payment systems. Therefore, the Committee carried out a survey of such international practices, and drafted the law on the basis of those international practices. Fourthly, that the Reserve Bank of India (RBI) should be the regulator, and should have regulatory oversight over the payment system. Fifthly, that the proposed legislation should encompass all types of payment and settlement systems in the country. Let me repeat this point. The proposed legislation should encompass all types of payment and settlement systems in the country, and should empower the RBI to grant authorisation or exemption, as the case may be.

But RBI is also a service provider, and we are making RBI the regulator. Therefore, the Committee recommended that when RBI acts as a service provider and RBI acts as a regulator, then the two functions must be performed by different wings of the RBI. There should be a clear demarcation between the regulator and the service provider, and that separate and distinct wings of the RBI should perform the role of regulator and the role of operator. This report was studied by the RBI. Therefore, the RBI then proposed to the Government that the Bill must be introduced.

Now, a very simple suggestion is sought to be made. Why do you need a Bill? Why cannot you simply amend the RBI Act? Please look at the Bill. It is not a matter of amending one section. It is the matter of introducing a Bill containing 38 sections. Kindly look at the definitions that are nowhere in the RBI Act. The definitions are of a payment system; service provider; system participant; regulator; licencing power; the circumstances under which licence will be granted; the circumstances under which licence will be revoked; who will resolve disputes; who will be the appellate authority, etc. This cannot be done by amending one section of the RBI Act. We have to make a separate law. Therefore, the RBI has advised the Government that we need a separate law. The Bill has been drafted in close consultation with the RBI.

The Bill was introduced by my colleague in the Lok Sabha on 25 July 2006. It was referred to the Standing Committee on 28 August 2006. The Standing Committee held elaborate sittings, and has taken evidence. It has submitted its 56th Report on 16 May 2007. The Standing Committee had 21 Members from the Lok Sabha and nine Members from the Rajya Sabha. They have given a near unanimous report with only one dissenting note by one hon. Member belonging to the CPI (M).[\[r27\]](#)

Therefore, all sections of the House, all parties, have supported the Bill. It is a necessary Bill. You must have a regulator to regulate all the payment systems. The dissent has been given by Mr. Rupchand Pal. I am willing to answer point-by-point the points raised by him.

The Standing Committee recommended three modifications. We have accepted all the three modifications. First, the Committee recommended that the definition of 'bank' needs to be modified with the RBI to be the authority to notify a bank. We have accepted that suggestion. The Committee has agreed with the suggestion that the Board for Regulation and Supervision of Payment and Settlement Systems already constituted under the Reserve Bank of India may be carried forward as a provision in the Payment and Settlement Systems Bill. We have accepted that. Third, the Committee has recommended that on the lines of SEBI Act, the RBI should be empowered to make regulations without the prior sanction of the Central Government. We have earlier said, "With the prior sanction". The Committee said, "No, it must be without the prior sanction". We have accepted that.

The RBI made one recommendation, namely, that when there is a dispute between the RBI as a service provider and the systems participant, that dispute must be resolved by the Central Government as the dispute resolving authority. We had accepted that also.

So, four official amendments are being moved accepting the recommendations. The only dissent note, if I may say with great respect, proceeds on what I would say not an adequate understanding of the provisions of the Bill. But I am prepared to meet each objection raised by Mr. Rupchand Pal. The first objection is, amend Section 58 of the RBI Act as it is sufficient. The answer is that it is not sufficient. By amending Section 58, I cannot introduce 38 Sections. I cannot introduce all these definitions, and I cannot make the RBI the regulator. Therefore, we need a separate Bill. It is not possible to bring a Bill containing 38 Sections into amending one Section of the RBI Act.

Secondly, regulator can be service provider too, and there is no conflict of interest. We have no quarrel. RBI will be the service provider for the RTGS. RBI will be the service provider in 14 centres, but in the remaining 1068 centres in the Clearing Corporation of India, RBI is not the service provider. Therefore, you need a regulator. Therefore, we are appointing RBI as the regulator which will regulate all the service providers in the country.

The third objection is that several documents of the RBI do not indicate any universal practice. That is not correct. In fact, the RBI has prepared and presented a document called "The RBI's Vision Document". The RBI's Vision Document captures all the universal practices. R.H. Patil Committee has gone through the universal practices, and this Bill is based upon that recommendation.

Fourth objection is that the proposed new private entity has neither expertise nor experience. It is again wrong. Except in the four metros, it is the State Bank of India and the public sector banks which are now providing clearing services in 1068 centres. Now, what we are proposing is all of them together will now form a new corporation called the National Payments Corporation of India. The shareholders will be the State Bank of India and the public sector banks and other banks. No shareholder can own more than 10 per cent. Therefore, nobody can dominate that. The State Bank of India will be a major shareholder; the public sector banks will be a major shareholder. Some private sector banks are also there. They will also have to be given shares. NPCI will now be a payment service provider for all the centres which are now operated in separate places – by SBI in some places, by one public sector bank in one place, by another public sector bank in another place. These will all come under the National Payment Corporation of India which will be licensed by the RBI and which would be regulated by the RBI. Therefore, what we are now bringing is regulation where no regulation exists today.

Finally, I do not know how he gets this conclusion, but he says that in not so distant future, the whole system will be done by private entities. I cannot understand this because there is no provision in the Act which says that. In fact, everybody has to get a licence. Today, the payment service providers are the RBI, the Clearing Corporation of India, the State Bank of India and the public sector banks. They will continue to provide payment systems except that they will now be under a regulatory regime, and the regulator will be the RBI.

SHRI KHARABELA SWAIN : That is the moot point of objection.

SHRI P. CHIDAMBARAM: Why should RBI not be the regulator? NPCI which is going to be formed will be a Section 25 Company. No profits would be distributed to anyone. Therefore, it is not a private company seeking profits.[\[r28\]](#)

It is a non-profit company. All surpluses will be ploughed back to develop the payment system. Please see Section 25 of the Companies Act. It will be owned by banks, especially the State Bank and other public sector banks. It will be regulated by the RBI under a licence given by the RBI. What we are doing is bringing India's payment systems on par with international payment systems. It is high time that we had done this. I am told that tomorrow payments can be made by mobile telephony. That technology is being developed in which you can pay your credit card bills by mobile telephony, and mobile telephone companies are going to provide the payment system. So, technology will bring several new and innovative payments systems. All of them must be regulated. It is time that we made this law. The Standing Committee has appreciated the Bill. There is, of course, a respectable voice of dissent. I will answer every point of dissent, I will clarify everything. Therefore, I commend this Bill to the House and appeal to all sections of the House that it must be passed.

MR. CHAIRMAN : Motion moved:

"That the Bill to provide for the regulation and supervision of payment systems in India and to designate the Reserve bank of India as the authority for that purpose and for matters connected therewith or incidental thereto, be taken into consideration."

...(Interruptions)

श्री थावरचन्द गेहलोत (शाजापुर): माननीय सभापति महोदय, आज यहां संदाय और निपटान प्रणाली विधेयक, 2006 प्रस्तुत किया गया है और विधेयक प्रस्तुत करने के बाद माननीय वित्त मंत्री जी ने विस्तार से विधेयक, जो अधिनियम बनने वाला है, के संबंध में जानकारी दी है। उन्होंने यह भी बताया है कि इसे क्यों लाया जा रहा है। हम सब जानते हैं कि संदाय और निपटान प्रणाली भारतीय अर्थव्यवस्था की रीढ़ की हड्डी के समान मानी जाती है और यह देश की अर्थव्यवस्था को प्रभावित करती है। जैसे हमारे देश में अनेक वर्षों से, अगर मैं कहूँ कि आदिकाल से संदाय और निपटान प्रणाली प्रचलित है तो कोई अतिशयोक्ति नहीं होगी। यह लंबे समय से चली आ रही है लेकिन तरीके भिन्न-भिन्न रहे हैं, चाहे हंडी के माध्यम से हो या लेनदेन के माध्यम से हो, ये सब पहले से होता आ रहा है। परंतु जैसे-जैसे आधुनिकता बढ़ती जा रही है, आधुनिक साधन उपलब्ध होते जा रहे हैं, नए-नए तरीके ढूंढे जा रहे हैं और इससे इस तरह का विधेयक लाने की आवश्यकता महसूस की गई है। उस दृष्टिकोण से इसे लाया गया है। निश्चित रूप से यह विधेयक समर्थन योग्य है। अभी तक संदाय और निपटान प्रणाली भिन्न-भिन्न कानूनों के दायरे में आती रही और संदाय संबंधी जो समस्याएं आती रही हैं, उनके विवाद को निपटाने की कोई उचित व्यवस्था नहीं थी। इस कारण जो संदाय के लिए पात्र होते थे और जो कठिनाइयां महसूस करते थे, उन्हें न्याय मिलने में बड़ी कठिनाई होती थी। इसके साथ ही साथ कोई एक जैसा कानून नहीं होने के कारण और भी अनेक प्रकार की परेशानियां होती थीं। इस विधेयक में उन सब समस्याओं के समाधान की व्यवस्था की गई है और 38 धाराओं के माध्यम से इसको विधि-सम्मत इस प्रणाली को सुदृढ़ और सुव्यवस्थित करने के लिए कानूनी स्वरूप देने का काम इस विधेयक के माध्यम से होगा। निश्चित रूप से यह संदाय और निपटान प्रणाली को मजबूत करेगा और देश की अर्थव्यवस्था को इस कानून के कारण लाभ मिलेगा और संदाय के लिए जो पात्र होते हैं, उन्हें भी इसके कारण सहूलियतें मिलेगी। इसमें संदाय और निपटान प्रणाली में कौन-कौन से संस्थान आयेंगे, उन सबकी परिभाषाएं दी गई हैं और सामान्यतः हम यह कह सकते हैं कि जो बैंकिंग कार्य प्रणाली को अपनाने वाले संस्थान हैं, वे इस परिभाषा से इस विधेयक के दायरे में आते हैं।

सभापति महोदय, इसमें एक बात कही गई है कि स्टाक एक्सचेंज को इसके दायरे से बाहर रखा गया है। अब उसके बारे में बहुत सारे लोग पूछते हैं कि बैंकिंग प्रणाली स्टाक एक्सचेंज के माध्यम से अपनायी जाती है तो फिर यह संदाय और निपटान विधेयक जो लाया गया है, जिसके माध्यम से कानून बनेगा तो उसे उसके दायरे से बाहर क्यों रखा गया है। हालांकि वित्त विभाग की स्थाई समिति ने भी उस विषय में विचार-विमर्श किया था और सरकार ने जो जवाब दिया था, अंत में जाकर उन्होंने छोटी सी टिप्पणी के साथ उससे सहमति व्यक्त की है। मैं मंत्री जी से निवेदन करूंगा कि वह इस सदन के माध्यम से देश की जनता को अवगत करायें कि स्टाक एक्सचेंज को इसमें सम्मिलित क्यों नहीं किया गया है? ताकि जो छोटी-मोटी शंका-कुशंकाएं हैं, वे दूर हो जाएं। इसके साथ ही साथ इस विधेयक में अभिप्राधिकारी कौन होगा, इसकी व्यवस्था भी की गई है। फिर संदाय प्रणालियों का प्राधिकार किसके पास होगा, उसके बारे में भी उल्लेख किया गया है और वित्त मंत्री जी ने विस्तार से उसके बारे में बताया है कि आर.बी.आई. इस काम को देखेगी। जैसे आर.बी.आई. की तरफ से इस प्रणाली को अमल में लाने के लिए सहयोग देने की दृष्टि से पहले से एक बोर्ड रखा है और उस बोर्ड की कार्य-प्रणाली या व्यस्तता के कारण सही दिशा में काम करने में कठिनाई महसूस की जाती थी, इस कारण से भी यह विधेयक लाया गया है। फिर रिजर्व बैंक द्वारा विनियमन और पर्यवेक्षण का कार्य करने की व्यवस्था भी इसमें है। अब इसमें प्रणाली प्रदाता के अधिकार और कर्तव्य इन बातों का भी उल्लेख किया गया है। अगर यदि इसमें कहीं विवाद होंगे तो केन्द्र सरकार के पास अपील की व्यवस्था भी है। कुल मिलाकर यह कहा जा सकता है कि जो संदाय के लिए पात्र हैं....

सभापति महोदय : यदि आप और बोलना चाहते हैं तो नैवस्ट टाइम के लिए आप कंटीन्यू करेंगे। क्योंकि साढ़े तीन बज गये हैं, अभी प्रॉइवेट मेंबर बिजनेस लिया जायेगा।

श्री थावरचन्द गेहलोत : मैं और बोलना चाहूंगा।

सभापति महोदय : नैवस्ट टाइम के लिए आप कंटीन्यू करेंगे।

आइटम नं.24, श्री जय प्रकाश जी।

15.30 hrs.