

Title : Further discussion on the motion for consideration of the National Green Tribunal Bill, 2009 moved by Shri Jairam Ramesh on 15th March, 2010. (Discussion not concluded).

MR. DEPUTY-SPEAKER: Now, we will take up Item No. 16, namely, further consideration of the National Green Tribunal Bill. Shri Sandeep Dikshit to continue his speech.

श्री सन्दीप दीक्षित (पूर्वी दिल्ली): उपाध्यक्ष महोदय, इस बिल पर मैं चौथी बार अपनी बात कहने के लिए खड़ा हुआ हूँ। पहली बार ही मैंने ज्यादातर बातें कह दी थीं, यदि थोड़ा अधिक समय मिलता तो मैं अपनी बात समाप्त कर देता। उसके पश्चात दो बार और मुझे अवसर मिला, लेकिन व्यवधानों के कारण अपनी बात पूरी नहीं कर पाया।

महोदय, मैं सदन का अधिक समय नहीं लूंगा, कुछ बातें जो रह गई थीं, मैं केवल उनको व्यक्त करना चाहूंगा। मैंने पिछली बार जो बातें कहीं थीं, मैं उनको संक्षेप में दोहराना चाहता हूँ। मुझे मालूम है कि मंत्री जी के लिए वे बातें दोहराने की आवश्यकता नहीं हैं। ग्रीन ट्रिब्यूनल बिल का स्वागत विशेष कर इसलिए किया गया, क्योंकि आज जो तकनीक, विज्ञान और मानव जीवन है, इसके बीच में जो संबंध हैं, वे एक-दूसरे से बहुत ज्यादा मिश्रित बनते जा रहे हैं। आज हमारे जीवन के हर पहलू पर विज्ञान और तकनीक का असर है। पहले बहुत सी चीजें हम प्राकृतिक रूप से, अपनी ऊर्जा, शक्ति और अपने विवेक से कर लिया करते थे, लेकिन अब हर चीज में विज्ञान या तकनीक हमारे जीवन पर असर करती है। इसलिए उससे पैदा होने वाले, उत्पन्न होने वाले कई असर ऐसे हैं, जिसका हमारे जीवन पर अगर सकारात्मक असर पड़ता है तो कुछ ऐसी भी जगह हैं, जहां उसका नकारात्मक असर भी पड़ सकता है।

उपाध्यक्ष महोदय, ग्रीन ट्रिब्यूनल बिल विशेषतः इसीलिए लाया गया है कि आज जो हमारी कोर्ट की प्रणाली है, एक तरफ तो वह अपने में बहुत बोज से दबी हुई है, दूसरा शायद पर्यावरण से जुड़े हुए, तकनीक, साइंस, इंजीनियरिंग से जुड़ी हुई जो चीजें आती हैं, जिसका पर्यावरण के परिप्रेक्ष्य में हमारे जीवन पर नकारात्मक असर पड़ता है, उसके लिए व्यक्ति अगर किसी कोर्ट में जाता है, कम्प्लेनट लेता है या नुकसान के बारे में करता है तो शायद हमारी न्याय प्रणाली उसके लिए पूर्णतः सक्षम नहीं है। इसलिए अलग से एक संपूर्णतः प्रणाली बनाने की आवश्यकता है, जिसके लिए ग्रीन ट्रिब्यूनल बिल आया है। मैं मंत्री जी का, उनके विभाग का बहुत-बहुत धन्यवाद करता हूँ, जो यह बिल लाए। बिल में कई प्रावधान हैं, मैंने कुछ बातें कही थीं कि शायद जिस तरीके से आज आप पांच या छः जगहों पर इस देश में इसकी बैंच को लगाने वाले हैं, वह शायद अपने में पूर्ण न हो, उसमें जिस तरह के मेम्बर्स की बात कही गई है, मैंने लिखा है कि संशोधन में शायद संख्या बीत तक जाए, हो सकता है कि आने वाले समय में और भी आवश्यकता पड़े। मुझे पूरा विश्वास है कि विभाग और सरकार इस बारे में हमारा ध्यान रखेंगे।

उपाध्यक्ष महोदय, मैंने पिछली बार यह भी कहा था कि हिन्दुस्तान में भोपाल गैस त्रासदी 1984 में हुई थी, वह शायद दुनिया की औद्योगिक त्रासदियों में सबसे बड़ी थी। सबसे ज्यादा सीख हमें वहां से लेनी चाहिए। किस तरीके से वह त्रासदी बनी, उस त्रासदी में से जो प्रॉब्लेम सॉल्यूट के और आयाम थे, उन्होंने अपने आपको किस तरह बचाया। हमारी कोर्ट की, कानून की प्रणालियां उस समय किस तरीके से असक्षम थीं, इस देश की जनता को, भोपाल की जनता को उन प्रभावित लोगों को न्याय दिलाने के लिए और यही नहीं, वह त्रासदी 1984 में नहीं रुकी, वह त्रासदी आज भी चल रही है। मैं मंत्री जी से अनुरोध करूंगा कि वे सांसदों का भी गुट लेकर जाएं। आज भी अगर वहां कोई बच्चा पैदा होता है तो उनमें हर तीसरा या चौथा बच्चा मानसिक या शारीरिक रूप से विकलांग पैदा हो रहा है। वहां ऐसी भयानक स्थिति है, जो भोपाल के उस इलाके के रहने वाले लोग हैं, उनके अलावा शायद कोई नहीं जानता है और सबसे बड़ी त्रासदी यह है कि यह देश और दुनिया उस त्रासदी को भूल चुकी है। कितनी बार उस बारे में, शायद साल में एक बार भोपाल की त्रासदी के बारे में हम कहीं एक-दो दौर कर लेते हैं, उसके बाद शाम को कोई मेच हो जाता है, हम उसके बारे में थोड़ी सी बात कर लेते हैं। शाम को कोई हीरो हीरोइन के साथ भाग जाता है, पूरी दुनिया उस चीज को भूल कर दूसरी विलासिता की चीजों में लग जाती है। भोपाल को भूलना शायद भोपाल की त्रासदी से भी सबसे बड़ी त्रासदी है। इस बिल को कुछ न कुछ उस त्रासदी से जरूर सीखना चाहिए। उसके अलावा इस देश के कई जगहों पर पर्यावरण से होने वाले नकारात्मक प्रभावों की जानकारी नहीं है। आज भी दिन-पूति-दिन हिन्दुस्तान के कई कोनों में इससे संबंधित त्रासदियां हो रही हैं। मैंने कुछ उदाहरण दिए थे। मैंने कुछ समय पहले एक फिल्म देखी थी, जिसमें बिहार में हमारा बहुत सा लेबर वर्क है, जहां से रेडियो एक्टिव माइंस की माइनिंग चल रही है, उसके आसपास माइनिंग कर रहा है। उसे पता भी नहीं चल रहा कि उसके पैर में या वयों बढ़ते चले जा रहे हैं। वहां के लोगों को पता भी नहीं चल रहा कि हमारे बच्चे मानसिक रूप से आज विकलांग क्यों पैदा हो रहे हैं। उसे पता नहीं चल रहा है कि आज जो मेरी बेटी पैदा हुई है, वह इस तरीके से क्यों पैदा हुई है, वह इंसान नहीं दिखाई दे रही है, न जाने किस रूप में दिखाई दे रही है। डाक्टर, समाज, अस्पताल एवं सरकार किसी को इसकी जानकारी नहीं है कि उस पर रेडियो एक्टिव का जो प्रभाव पड़ा है, वह कहां से पड़ा है। वह हमारे और आपके ही दिए हुए किसी दुष्प्रभाव का नतीजा है।

उपाध्यक्ष महोदय, आज मैं आपके माध्यम से मंत्री जी से विनती करूंगा कि आपने यह ट्रिब्यूनल बनाया है, लेकिन इसे सशक्त करने के लिए, इस देश की प्रणालियों को सशक्त करने के लिए, वे पर्यावरण या उससे संबंधित तकनीक से होने वाले दुष्प्रभाव के लिए, जनता के लिए एक सशक्त रूप से सिपाही बन कर आगे बढ़ें। आज हमें ठीक से पता नहीं है कि आने वाले समय में हम जिन चीजों का इस्तेमाल कर रहे हैं, उनका क्या दुष्प्रभाव होगा। मैं सेल फोन का छोटा सा उदाहरण देता हूँ। आज सारी जनता इसका इस्तेमाल करने लगी है, मैं यह नहीं कह रहा हूँ कि इसका कोई नकारात्मक प्रभाव इस समय पड़ रहा है, मैं केवल उदाहरण के रूप में बता रहा हूँ।

उपाध्यक्ष महोदय, कहीं बीच में यह बात आई कि सेलफोन का कोई भी असर मस्तिष्क पर नहीं पड़ता है। फिर मैंने कुछ समय पहले पढ़ा, क्योंकि कभी-कभी वैज्ञानिक जर्नल पढ़ने की एक आदत है, उससे यह बात तो तय हो गई कि इसकी जो वेक्स आती हैं, उनका मस्तिष्क पर असर तो पड़ता है, अब यह अलग बात है कि वह सकारात्मक होता है या नकारात्मक, यह नहीं पता। मेरा सिर्फ यह कहना है कि हमारे यहां ऐसी ज्ञान सृजन करने वाली संस्थाओं का भी निर्माण होना चाहिए, जो इन चीजों को दिन-पूति-दिन आंक सके और त्रासदियां होने से पहले, कम से कम जनता के बीच में इन सूचनाओं को आगे करें कि हम कम से कम इसके बाद, जिसे अंग्रेजी में कहा जाता है- इन्फॉर्म चायसेंस लेने लगे।

उपाध्यक्ष जी, एक और चीज है, जब पर्यावरण से संबंधित हम कोई नई परियोजनाएं लाते हैं, तो उस समय की जानकारी के हिसाब से, उस समय के कार्यक्रमों के हिसाब से, उस समय के आश्वासनों के हिसाब से पर्यावरण मंत्रालय या अलग-अलग जो राज्य सरकारें हैं, उन कंपनियों को, उन प्रोडक्ट्स को या उन उत्पादनों को परमीशन दे देती हैं। आने वाले समय में, कई बार इस बात को देखा जाता है कि जो आश्वासन उन्होंने दिए थे, वे गलत पूरे हो जाते हैं। उस समय इंसान कोर्ट में

लड़ता रहता है और जिन दस्तावेजों के आधार पर परमीशनों दी गई थीं, वे दस्तावेज ही नहीं मिलते हैं। जिन दस्तावेजों के आधार पर देखा गया था कि आज का यह उत्पादन इंसाजों के लिए सेफ है, उसका कुछ पता नहीं चलता। इसलिए मैं यह निवेदन भी करूंगा कि इस रूप की भी एक लाइब्रेरी धीरे-धीरे निर्मित होनी चाहिए, जहां से इस प्रकार के दस्तावेज प्राप्त किए जा सकें।

उपाध्यक्ष महोदय, मैं फिर भोपाल की तरफ वापस जाता हूं। आज यह बात सबको मालूम है कि भोपाल फैक्ट्री निर्माण करने वाले जो इंजीनियर लगे हुए थे, उन्होंने सात या आठ साल भोपाल फैक्ट्री के निर्माण के बाद, कई पत्र यूनियन कार्बाइड को लिखे थे और कहा था कि जहां एम.आई.सी. गैस का काम हो रहा है, वहां जो वाटर करटेन, उसके आसपास पड़ना चाहिए, वह वाटर करटेन काम नहीं कर रहा है। जब इस बात की इन्वॉयरी हुई, वे ही पत्र उस पूरी रिपोर्ट से नदारद हो गए। वह रिपोर्ट, वे चिट्ठियां आपकी और हमारी अमानत हैं, किसी फैक्ट्री की अमानत नहीं हैं, क्योंकि मरने वाला आम इंसान था, कोई फैक्ट्री के अंदर का व्यक्ति नहीं था। इस तरीके का भी इंतजाम हमें करना पड़ेगा कि आगे आने वाले समय में यदि कभी कोई ऐसा भयानक हादसा हो, तो मंत्री जी के हाथ में, एनवायरनमेंट डिपार्टमेंट के हाथ में और हमारे ग्रीन ट्रैब्यूलन के हाथ में पहले से ऐसे कुछ दस्तावेज हों ताकि अगर न्याय की आवश्यकता हो, तो अपने आप में ये इस एवीडेंस को देख सकें।

महोदय, मैं मंत्री जी का ध्यान छोटी-मोटी और चीजों की ओर दिलाना चाहता हूं। अपने इस शेड्यूल में एक प्रावधान किया है कि व्यक्ति नहीं रहता है या उसके परिवार के कुछ लोगों की मौत हो जाती है, तो उसमें जो भी बचे हुए लोग हों, वे कैसे कंपेंसेशन मांगेंगे। मैं केवल एक बात जानना चाहता हूं, मैं समझ नहीं पाया कि इसमें वह प्रावधान है कि नहीं, अगर है, तो आप इस बात को वतैरीफाई कर दें, नहीं है तो डालें कि अगर परिवार सम्पूर्णतः नष्ट हो जाता है, तो कंपेंसेशन कौन मांगेगा? भोपाल में अगर 8 हजार आदमी मर गए, तो किसी-किसी परिवार में कंपेंसेशन मांगने वाला, कहीं कोई नहीं बचा था। इसलिए इसका भी प्रावधान करें कि क्या उनका कंपेंसेशन समाज मांगेगा या सरकार का दायित्व बनता है और वह कंपेंसेशन कहां जाएगा? क्योंकि कभी-कभी ऐसी चीजें जरूर सामने आएंगी, हो सकता है कि कुछ ऐसे भयानक हादसे हों कि सैकड़ों की तादाद में इंसान नष्ट हो जाएं और उनका कंपेंसेशन मांगने वाला और पूछने वाला भी कोई न बचे।

महोदय, मंत्री जी ने इसमें एक बात और कही थी कि आगे आने वाले समय में कई ऐसी भी चीजें हैं जिनका दूसरे तरीके से हमारे पर्यावरण पर, हमारी जिंदगी पर असर हो रहा है। मैं मंत्री जी से केवल यह आश्वासन चाहूंगा कि क्या इस बिल के माध्यम से ग्रीन ट्रैब्यूलन के द्वारा जो ग्रीन कोर्ट्स बनेंगे, वे उन्हें कवर करते हैं कि नहीं और अगर नहीं करते हैं, तो मैं उनसे विनम्रता से आग्रह करूंगा कि उन्हें भी कवर किया जाए।

महोदय, यहां गुजरात के मेरे कुछ मित्र बैठे होंगे, वे जानते होंगे कि गुजरात की जो हमारी प्रसिद्ध कॉरीडोर बेल्ट है, जो ऊपर मेहसाणा से चलकर नीचे वलसार तक जाती है, जहां केमिकल फैक्ट्रियों का एक जाल बिछा हुआ है। इन्हीं केमिकल फैक्ट्रीज के प्रदूषण के कारण, वहां कोई ऐसा घर नहीं बचा है, जो ग्राउंड वाटर से पानी पी सके। क्या वह इसमें कवर हो पाएगा या नहीं? आज हम लोग कहीं भी जाते हैं, तो देखते हैं कि बंगल में एक फैक्ट्री लग जाती है, जिसमें पहले वेजीटेबल डाइंग का काम हो रहा था, आज उसमें केमिकल डाइंग का काम हो रहा है, वह पानी को बहाता है और कम से कम 15-20 किलोमीटर एरिया के जो एक्वैफर्स हैं, वे दूषित हो जाते हैं और उनका असर हमारे ऊपर पड़ने लगता है। हम जानते भी नहीं हैं कि हम क्या चीज पीते चले जा रहे हैं और बाद में जब उनका असर होता है, तो पता चलता है कि किसी को किडनी का कैंसर हो गया या किसी को आंख में अजीब सी बीमारी हो गई या पता चला कि आगे आने वाली नस्लें नष्ट हो गई या बच्चे, अलग-अलग रूप में अलग-अलग बीमारियों के साथ पैदा होने लगे। न हमें उनके परिणामों का कोई ज्ञान है और न विज्ञान के पास ऐसी कोई चीज है कि दोनों चीजों को लिंक कर सके। कभी आगे चल कर इस बात का पता चल सके, तो क्या वह इन में कवर हो पाएगा कि हमें कहीं न कहीं इसमें न्याय मिल सके।

अंत में, मैं केवल एक बात कह कर अपनी बात को समाप्त करूंगा। मंत्री जी, आपके पास बहुत ज्ञान है। आप खुद भी रिसर्च में लगे रहे हैं। आप खुद भी इस देश के बहुत इंटीलैक्चुअल लोगों में माने जाते हैं। हम कई आयामों में अपनी जनता को एजूकेट करते हैं। वयों न हम पर्यावरण से संबंधित जो दुप्रभाव हो सकते हैं, उस कनेक्शन को भी हम आई.ई.सी. के द्वारा, किसी भी कार्यक्रम के द्वारा लोगों के बीच उस बात को डालना शुरू करें। हमें नहीं पता चलता है। हमें हल्का सा सरदर्द होता है, कौसीन लेकर हम बैठ जाते हैं। हमें यह नहीं पता होता है कि कौन सा केमिकल हवा में घूम रहा है, जिससे हमें प्रभाव हो रहा है। आगे आने वाले समय में उसका दुप्रभाव बढ़ता चला जाता है। बहुत सी चीजें जो हम सामान्य रूप में अपने छोटे से संकुचित दिमाग में या अपनी नॉलेज के हिसाब से किसी प्राकृतिक चीज पर उसे डाल देते हैं या हमारे डाक्टर्स जो उस जानकारी को नहीं समझते हैं या किसी और चीज को समझ सकते हैं, हो सकता है कि उसके प्रभाव किसी और चीज में हों।

उपाध्यक्ष महोदय, आपने देखा होगा कि अगर आपको खाना खाने में दिक्कत हो रही है या आपकी और किसी प्रक्रिया में दिक्कत हो रही है, तो सात-आठ चीजें दी जा सकती हैं, क्योंकि हो सकता है यह कैंसर हो। आपने ऐसे कई ऐड पढ़े होंगे। इसी तरह से पर्यावरण से संबंधित भी आने वाले समय में अगर मंत्री जी के प्रभाव से इस तरीके से एडवर्टाइजमेंट आए, शहरों में भेजी जाए, राज्यों में भेजी जाए, तो हमारा सामान्य व्यक्ति, जो अपने में इन चीजों को पढ़ने की क्षमता नहीं रखता है, उसके पास न समय होता है, न ऐसी चीजों का उनके पास एप्रोच होता है, वह इसको समझ सके। आने वाले समय में कम से कम जब हमारे बच्चे बड़े होंगे, तो उनके मन में भी इन चीजों के बारे में ज्यादा जागरूकता रहेगी और हो सकता है जब उनके ऊपर ऐसे कोई प्रभाव पड़े, तो वे इस ट्रिब्यूलन का इस्तेमाल कर सकें, तॉज एंड तीगल रेग्युलेशन का इस्तेमाल कर सकें। पर्यावरण से जो दुप्रभाव इन फैक्ट्रियों के कारण और तकनीकी के कारण हो रहे हैं, उसमें हम शायद ज्यादा सशक्त रूप से अपने आपको संभाल सकें।

इन्हीं बातों के साथ मैं मंत्री जी का बहुत धन्यवाद करता हूं कि वह बिल को लाए। उपाध्यक्ष महोदय, मैं आपका भी स्वागत करता हूं। मेरे ख्याल से मेरे लिए तो यह एक रिकार्ड है, अपने लेग्स में इतने लंबे समय तक कभी शायद संसद में नहीं खड़ा हुआ, मंत्री जी, जितना आपके बिल के कारण मैं खड़ा हुआ हूं। मेरे जीवन का एक यह भी छोटा सा रिकार्ड है। मैं पुनः आपका धन्यवाद करते हुए अपनी बात समाप्त करता हूं।

National Green Tribunal Bill, which is a welcome measure from the side of the Government. Some ten years back, when the leader of the DMK Parliamentary Group, Shri T.R. Baalu was the Minister for Environment and forests, I had suggested that there should be a Green Bench in the Supreme Court of India and in all the High Courts of Adjudication. I think, some High Courts have the Green Bench. This Bill is a welcome measure in the sense that it is not just the interpretation of the laws relating to environment but also the knowledge on science, that is, the geo-physical scientists, biological scientists will also be the members of this Tribunal because it is more than the law that environmental issues are related to the other areas of science also. One good thing about this Bill is that this Bill is introduced on the suggestion of the Supreme Court of India, which has been the authority in deciding these legal issues and the Government of India which has been the Appellate Authority on various issues of environmental protection.

We know that industrial development is always at the cost of environment. Thus, there is no industrial development without affecting the environment. We have steps to abate pollution but we cannot have a zero pollution. If we want to have a zero pollution, there should not be any industrial activity. That will otherwise affect the country's economy. When the hon. Member from the BJP, Shri Anand Kumar Hegde was speaking on this Bill the other day, he was telling something which led to some confusion in my mind. I am not going to reply to his question because the hon. Minister for Environment is well capable of replying to all these things but he had certain apprehensions because of his non-understanding of the concept of this Bill.

We had an experience earlier. We had this Central Appellate Tribunal; we had the State Appellate Tribunals for settling matters relating to the service, and the Government servants. This National Green Tribunal is also on the same lines which would settle the issues relating to environment outside the courts. When my friend was talking, he was referring to compensation given to those people who are affected by the environmental issues like the Bhopal Gas Tragedy and others. It is not only that; it will help the industrialists to approach these tribunals and say that their industries will not pollute the area or whether they can come or not, depending on its impact on environment.

As I was telling, the Central Appellate Tribunal and the State Appellate Tribunals were very much helpful in settling matters relating to various issues raised by the Central and State Government servants. But I must tell the Minister one thing – this Bill should not meet the same fate as that of the National Environmental Tribunal, 1995 and the National Environment Appellate Authority, 1997. They are dead; and the Government had not formed the authority; I do not know what happened to them.

When I went through the Bill and studied, I found that there are issues. When the Tribunal is equally divided, then there would be another appeal. The question of Tribunal being equally divided, once again will delay the matters. So, I want the hon. Minister to have the Tribunal in odd-numbers so that there is no equal division in decision-making. There should be a decision one way or the other. The Minister has to take care of all these things. I fully support the Bill. This Bill is very essential.

Most of the time, we forget the eco-balance, which should be maintained in the country. So, this Bill will help the country to maintain its ecological balance;

this Bill will protect the people who are affected by the environmental issues and this Bill will definitely do justice to all sections of the people – the common men, the industrialists and the Government.

With these words, I support the Bill.

SHRI KALIKESH NARAYAN SINGH DEO (BOLANGIR): Thank you, Mr. Deputy-Speaker.

At the outset, let me congratulate the Government for bringing forward this Bill, National Green Tribunal Bill, 2009, with increased focus on environmental degradation and the focus on global climate change, global warming and the need to have sustainable economic development friendly with environmental issues. I congratulate the hon. Minister and his team for bringing forward this Bill.

It is a welcome move. However, as there are many a slip between the cup and the lip, both in context and structure, this Bill falls short on many counts.

Any judicial body such as this, will be judged by three factors – one, the scope and powers of that body; two, the efficiency with which it deals with the procedures or the issues it faces; and three, the access to justice.

On the scope of its jurisdiction, this crucial Bill excludes many crucial Acts which are present in many other countries, but have not found a place in the National Green Tribunal Bill. In the context of this Government, I would like to mention the Wildlife Protection Act of 1972 and the Scheduled Tribe (Recognition of Forest Rights) Act, 2005, including the Pesticide Act. All three of these Acts would be very relevant in the context of this Green Tribunal but they have not found place. The hon. Minister may consider the same.

Secondly, the access to this Tribunal is severely restricted. The power of the common man to go to High Courts across the State now has been subsumed by this National Green Tribunal which will only have, if I remember correctly, five places of sitting to begin with. Will it be possible for a common tribal person from Orissa to reach and to have access to these courts is something that the Government needs to consider.

Thirdly, I come to Section 19 of the Bill. The *locus standi* of a person to file an application before the Tribunal reads:

"Any representative body or organization functioning in the field of environment, with permission of the Tribunal."

It means the common man, the man who is affected or a human rights body or a body which deals in, let us say, public health will not find access to this Tribunal. This is more important because now the issue of environment falls within the purview of article 21. Access to this Tribunal must be open to all.

As regards structure of the Bill, some of the words are very subjective and vague to the extent that the Bill fails to note that if there is a direct violation of a statutory environmental obligation, it becomes a legal wrong. Unless somebody approaches the Tribunal with a particular problem, the issue of the environmental degradation is not noted. According to the Bill, the incident should affect a large community at large. What if there is no community at large around and yet environment is being degraded? Can the Green Tribunal actually take a view on that? Can it hold proceedings on that and can it give a judgment on that? That is left out and in my view it does not fall in its purview.

Secondly, the wording "substantial damage" is very subjective. It depends upon the judgment of an individual judge to determine what is substantial damage and whether that should be applicable to the current environmental problems and whether that problem can be acceptable under this tribunal.

Sir, for some reason the Government has actually put capping on time period of liability and accountability for this Bill. With your permission I quote Section 14, sub-clause (3) of Chapter III. This is a clause which deals with Tribunal's jurisdiction, powers and proceedings. It reads:

"No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose."

I also quote Section 15, sub-clause (3):

"No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose."

My friend from the Congress Party, hon. Sandeep Dixitji was talking about the Bhopal Gas Tragedy. He talked about the consequences still being felt. Yet you have limited the period of action or filing of application to six months and filing of application for damages to five years. Environmental problems can be manifest 20 years or 30 years from the date of consequence. For the first ten years or 20 years or 30 years radiation and things like pollution of ground water will not be determined. We will only find out how severely it affects people after 10 or 15 or 20 years. It even manifests itself in the form of genetic defects. How can we limit on the basis of time the application to this Tribunal?

The Government has also for some strange reason limited the penal liability of companies to a maximum of Rs.25 crore if they fail to comply with the orders of the Tribunal. The hon. Environment Minister must know that some of the environmental degradation which happens by companies can lead to damages of billions of dollars – Rs.10000 crore or Rs.20000 crore and in that context it may be more amenable for the company to pay penalty of Rs.25 crore and not comply with the order. The only justification or the co-relation I can see is the SEBI Act which has a clause to hold the maximum penalty of Rs.25 crore. But that is no co-relation. The SEBI is a financial Act and it does not affect the common man and it does not affect the human lives in the way environmental degradation will.

I would urge upon the hon. Minister to ensure that just penal clauses for just action, the correct penal clauses for the kind of action that are performed should be kept in this Tribunal Bill, 2009.

Sir, one big vacuum that I find in this Bill is the scope of criminal liability. Suppose, like in the case of the Bhopal Gas Tragedy there is an essence of criminal liability to be imposed, then what happens? The National Green Tribunal will look only at civil liability. What does the affected party do? Does he approach two courts – one for the civil liability and another for the criminal liability? Or, can he hope to have one or even some sort of procedural conjunction with the criminal court from this Green Tribunal?

Sir, I would not like to take much time of the House. I would like to thank you for giving me this space. The hon. Minister did a wonderful thing in the case of the BT Brinjal. He actually went and got connected with the public to get the correct information and gauge the public view. I would like to urge upon the hon. Minister to do the same in this case. I feel that this Bill will set the standard for all economic and environmental development to follow from now.

DR. KAKOLI GHOSH DASTIDAR (BARASAT): Sir, today we have to decide that the urgent requirement of human beings for development and living life as they want has to be balanced and it has to be decided whether environment that is doing so much for us whether we want to protect it and maintain a healthy life or we want to sacrifice the environment. Though the particular incident that troubled the air traffic all over the world just last week is not directly related to any of our misdoings, millions of passengers, including our hon. Prime Minister, had to suffer because of this. A kind of gas had polluted the atmosphere in such a manner that aircrafts had to be grounded and we have rather been lucky to avoid any accident by way of mid air collision and thereby losing human lives.

Important to all of us is the living standard of human beings and particularly those living off the forests. We have to give recognition to their rights to live as they want, as they have been taught to live in the forests by their forefathers. The people in the forests have been living in the forests for time immemorial. Their forefathers have shown them and taught them as to how to live in the forests using the facilities available to them. But today their lives have been endangered by poachers, by cultivators from the higher caste who are coming into the forests and also by corporate houses who are aiming the mineral wealth hidden in the different forest areas and hilly areas.

The environment has to be protected. We are not criticizing the action against the *adhivasis*, who are up in arms against the State, we are not in favour of an armed revolution; we are not in favour of killing of human beings and we are not in favour of the politics of murder. We also have to recognise their demands. Their forefathers have taught them that forest was their land. Now, whether they want to live in the forests or get modernized and live in the cities, that right of theirs has to be appreciated and given to them.

And there lies the fine line that we have to draw. We have to, on the one hand, protect the animals in the forest, protect the flora and fauna, protect the human beings who have been living off the forests for millions of years now and, on the other hand, we have to balance and bring forward developments as we have done in the past. Our great nation has brought the life expectancy just after Independence, from 43 years of age to today where it stands at 67 years of age. It is a fine balance.

Before this time, two other regulations had been brought forward. The one brought forward in 1995 could not be enforced and it could never be set up. Then in 1997, National Environment Appellate Authority was also brought forward but it became defunct. Now provisions under article 32 and 226 of our Constitution give wide powers to the different courts to protect environment. But keeping in mind today's scenario in which water resources are getting depleted, the mountains on the sly being burst open by corporate houses for the bauxite held within the core of the mountains and hills, the deforestation that is being brought forward by different corporate houses and the poachers killing the natural habitat. The human beings who are living within these areas are in danger. It is not only that. The environment is so polluted that very soon we will be having huge landslides, we will be having deluge like the ones given in scriptures in which Noah floated his

Ark. We will also be having no resource for making electricity, we will not have enough water to water the farmlands, agriculture will be deprived and the quantum of agricultural products will fall and there might be a war for food and water. There lies the necessity for this National Green Tribunal in whose favour I stand here today.

There were certain comments by the Departmentally Related Standing Committee and the Ministry of Science and Technology and it is heartening to note that the suggestions have been incorporated. In the original Bill, a section had been there in which the Central Government had the discretion to allow different dates for different sections to come into force. The amendment says "on such date as the Central Government may by notification in the Official Gazette appoint". The Act shall come into force and shall apply to the Act in toto." In other words, the entire Act will come into force at once and not separately.

It also states regarding the number of members. The original Bill was silent on this. But now it says qualified number of members present should be not less than ten. Likewise, there are other amendments that have been brought forward and accepted. The National Green Tribunal Bill should be brought forward, supported and brought into effect to protect the requirement of not only the forest dwellers but the perpetrators should also be brought to book. The meeting held in Rio under the auspices of the United Nations has given the right saying 'pollute and pay'. So, any corporate house or any perpetrator against our mother environment can be brought to book by this Bill.

Hence, I support this Bill.

SHRI M.B. RAJESH (PALAKKAD): At the outset, let me make it clear that though I have no objection to the concept of Green Tribunal, I have some strong objections – and some observations to make – to the content of this Bill.

As hon. Minister of State of the Ministry of Environment and Forests has said in his introductory remarks, India is going to be the first country to set up a separate Tribunal for the adjudication of environmental matters. In that sense, this would have been a historic opportunity for him. But unfortunately, the Minister and the Government have completely missed this opportunity because of their ideological obsession with neo-liberalism.

In the last couple of decades we have seen that environmental issues have assumed greater significance. In the era of liberalisation, there has been a sharpening of contradictions between the so-called development and the environmental and social concerns. This has been happening throughout the world and in our country also. The growing greed for grabbing natural resources for profit under the liberalised regime has led to the intensification of exploitation of nature and environment. This is the environment of creating environmental battles. These environmental battles are reflected and resulted in the proliferation of litigations in the courts in recent years. It is these battles which make this legislation a necessity. I agree with that. However, this legislation cannot be used as an effective instrument to protect the interest of our people in these environmental battles. On the contrary, this will become a sharp-edged weapon in the hands of corporates. Even some of the *prima facie* positive aspects of this Bill, like the recognition of the need to involve the experts in adjudication and quick justice delivery, will not serve the interest of the people because of the highly flawed nature of this Bill and its corporate affinity.

Now, I will briefly deal with some of the objectionable features of this Bill. Firstly, the Bill leads to a restriction of access to justice. There is over-centralisation of powers with the Union Government. This is evident in determining the location, constitution, mandate and procedures of the Tribunal. Clause 3 of this Bill gives too much powers to the executive. This Bill has ignored the principle of separation of powers between the judiciary and the executive. In keeping with the Law Commission's recommendations, I suggest that each State must have a bench.

Then comes the most undemocratic and anti-people clause of the Bill. This is clause 22 (2). This clause has a provision to declare a claim "untenable". Not only that. Even there is a provision to impose penalty on the person appealing. This is nothing but a deliberate attempt to prevent people from bringing issues before the Tribunal. I would like to demand that this clause must be deleted.

According to clause 15 (3), there is a five-year stipulation for filing application for compensation. Damages occur over a long period and it is not always immediately noticeable and traceable to the source. For instance, chemical exposures and radiation exposures take more than five years to manifest themselves. Therefore, this fixed period of five years should be removed.

Now, I come to clause 28. This clause contains yet another objectionable provision. Civil courts are barred from adjudicating matters that lie within the Tribunal's jurisdiction. This is completely contradictory to the Law Commission's recommendations. This is problematic because distance alone could be a huge deterrent for the people in remote areas.

Reaching out to a few Green Tribunal benches may be impossible. So, the jurisdiction of other courts must not be barred.

15.00 hrs.

There is no provision for appeal in this Bill. I would suggest that people must be allowed to go to the Supreme Court.

Clauses 4, 5 and 6 deal with the composition of the Tribunal. The composition itself is highly problematic. The criteria for expert members create the apprehension that the Tribunal may become a club of bureaucrats and technocrats. It is highly surprising that there is no space for social scientists and there is no mention of the socio-economic impact of environmental issues also. In India, most projects are being located in tribal and rural India. So, there has always been a conflict between livelihood and rights of the local community and the access to resources. So, experts must have the criteria that enable the appointment of social scientists and non-bureaucrats.

The second feature of the Bill which I oppose, which I criticise is the narrow and vague jurisdiction. This Bill narrows the culpability and responsibility for environmental accidents. Clause 14 (1) includes enforcement of any legal right relating to environment but this has not been specified. The Bill leaves out of its purview three key legislations. These key legislations are: the Forest Rights Act, 2006; the Indian Wildlife Protection Act, 1972; and the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996. These three Acts must override this Bill.

Clause 2 (1) (m) says that the Tribunal will be dealing only with "substantial questions relating to the environment" affecting "community at large." The environment is protected by Article 21. So, any violation is obviously substantial and should be brought within the ambit of this Act.

The definition of polluting activities in clause 2 (1) (m) should be more comprehensive and inclusive.

The third and most unacceptable aspect of this Bill is its corporate orientation. There are many provisions that are highly lopsided and partial to the private sector in this Bill. If you take clause 2 (1) (o), there is a reference to workman but the definition is not comprehensive enough to include contract labourers, casual labourer, the daily wage worker beside the regular employees.

MR. DEPUTY-SPEAKER: Please conclude.

SHRI M.B. RAJESH : I am concluding. According to clause 16 (i), this Bill opens up the space for speedy clearance within six months and grants access to judicial remedy against Executive refusal of environmental clearances. So, earlier, the private companies could not appeal in the courts against the refusal by the Government to grant environmental clearances. But this provision opens up that area. This implies that even in the Fifth and Sixth Schedule Areas, the private sector can appeal against the Panchayat on natural resources.

Sir, I am coming from the district of Palakkad which is having the experience of large-scale loot and exploitation of ground water by Coca Cola. All of you must be aware of Plachimada area....(*Interruptions*)

MR. DEPUTY-SPEAKER: Please conclude.

SHRI M.B. RAJESH : I am concluding....(*Interruptions*)

SHRI P. KARUNAKARAN (KASARGOD): Sir, since this Bill is very important, we have to be given time to speak....(*Interruptions*)

MR. DEPUTY-SPEAKER: Shri Rajesh, you have to conclude. How much time do you need?

SHRI M.B. RAJESH : I will conclude within two minutes.

MR. DEPUTY-SPEAKER: You can take only one minute.

SHRI M.B. RAJESH : I will take two minutes because it is a very important field. I have studied a lot in this regard.

MR. DEPUTY-SPEAKER: There are so many Members to speak.

SHRI M.B. RAJESH: In Plachimada, we had seen how the Coca Cola Company challenged the Panchayat's authority in issuing a licence. Against the Panchayat's refusal, the Coca Cola Company approached the courts and obtained licence to

run their bottling plant and through the mindless exploitation of ground water, they ruined the entire area.

I fear that this Bill will encourage such type of exploitation and will further undermine the community rights over natural resources. So, Clause 16 (1) must be deleted.

As far as Clause 25 (2) is concerned, that clause seems to confine itself to relatively non-serious offences. This is not adequate to deal with offenders like Warren Anderson and serious cases like the Bhopal Gas tragedy. I am of the view that in the era of corporate business, the role of companies and Government departments and the provision of penalties for their acts of omissions and commissions are of huge significance. So, the provision of imprisonment must be increased to at least 14 years. The present provision of 3 years is grossly inadequate. Further the termination or suspension of contracts must be specifically included in both the penal clauses, that is, Clauses 26 and 27.

Then, liabilities of heads of companies have been diluted to actual consent or connivance of the person in charge of the company. The penalty for violation is set at Rs. 25 crore. This is highly inadequate. This amount is not enough to meet tragedies like the Bhopal Gas tragedy. So, what does this mean? Is this not a calculated effort to help the corporate houses and multinational companies? Only the likes of Warren Anderson and Union Carbide will be happy.

Lastly, the Bill completely misses the issue of non-compliance with the conditions of environmental and forest clearances.

MR. DEPUTY-SPEAKER: Please conclude.

SHRI M.B. RAJESH : Sir, I am concluding.

I can tell from our experience as to how the Coco Cola company has blatantly violated the conditions attached to the environmental clearance in Palakkad and devastated a whole village. The Bill, in its sum and substance, is anti-people and undemocratic. It does not protect the interests of the people of our country and it is evident from the provisions that the sole object of this Bill is to protect the interests of private companies.

SHRI VIJAY BAHADUR SINGH (HAMIRPUR): Mr. Chairman, Sir, first of all, I must thank the hon. Minister for bringing this National Green Tribunal Bill, 2009.

15.08 hrs (Shri P.C. Chacko *in the Chair*)

Looking to its object, it appears as a laudable object to achieve. But a quick glance of the Bill suggests that the Bill has copied the old Act on the issue and the label has been changed. These days, it has become a fashion to appoint only retired judges as Chairpersons of such bodies. Clause 5 (1) says:

"A person shall not be qualified for appointment as the Chairperson or Judicial Member of the Tribunal unless he is, or has been, a Judge of the Supreme Court of India or Chief Justice of a High Court."

In the last 10 or 15 years, it has become a fashion to appoint only retired judges as Chairpersons of such Tribunals. I am from the community of lawyers – I have been a lawyer – but every time the Chairman is a judicial person. The hon. Judge of the Supreme Court retires at the age of 65. At that age, he has very little to contribute. There are other persons also who are very much spirited. So, there should not be a complete embargo on other persons from being appointed as Chairpersons of these Tribunals. There are eminent environmentalists like Medha Patkar, Sundarlal Bahuguna and even the hon. Minister himself. If he is not in politics, he would have been the best man to be the Chairman of this Tribunal. ...(*Interruptions*) No, not at all, I am the last person. I have been his fan and I have been reading his articles earlier. So, my point is, the post of Chairperson of this Tribunal should not be limited only to judicial persons. Anybody who has a national stature in the field should be allowed to become the Chairman and it should be left open to all.

Take the case of CAT, the Central Administrative Tribunal. The hon. judicial members are only interested in getting their grand children married and not doing justice. So, I would request the hon. Minister to look into it.

Kindly see Section 5 sub-clause 2. It says, for the other members, "has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution." Mr. Chairman, this is very vague. What will happen is that – with due respect I would like to say – all the people of Government of India will find ways and means from this wide window to adorn this place. The entire Tribunal will be packed by those officers on the premise that when they were District Magistrates they were dealing

with these matters.

In Allahabad, there is a member in the CAT. He was a Railway member dealing with the court and in the CAT you have to decide the law about service matters which has no meeting grounds. So, I want this administrative experience of fifteen years including experience of five years in dealing with matters should be little more widened. I have seen in my fifteen years' career that at least half-a-dozen tribunals have failed because the members who were adorning the place did not have that spirit. Nobody goes through the CAT, only very small matters are being argued and later on everybody goes to the Supreme Court. But Income Tax Tribunal is very effective because they have different rules. So, I want that the appointment should be real because it is the teachers who make students and not the walls and the building.

Now, I come to clause 14. Mr. Narayanasamy appears to be nodding for the first time.

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI V. NARAYANASAMY): Why is he creating unnecessary problem? I am appreciating him.

SHRI VIJAY BAHADUR SINGH: Thank you

MR. CHAIRMAN : Time is limited please. Please speak on the subject.

SHRI VIJAY BAHADUR SINGH : Yes Sir. Kindly see section 14 sub-clause 3. It says, "No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months" That means, you knock the door within six months and if that period of six months is gone, you cannot knock. This is not correct. I would urge the hon. Minister to make it one year because by the time you know about the matter six months have gone. In Motor Accident Claims Tribunal, the period for knocking the door is one year. So, please make it one year also otherwise, the people may not understand its importance and effects. By the time they understand, say, toxic gas and all that, six months have gone. Although, there is some provision that you can explain and all that, there will be no difficulty if instead of six months the period for knocking the door is made one year.

Please see Section 28 (2). It says, "No civil court shall have jurisdiction" In India, the Civil Procedure Court is 200 years old. If in the village somebody's *naali* is polluting somebody's health, they go to the civil court. So, there is no difficulty if concurrent jurisdiction is left alive. Otherwise, what will happen? A poor man from Tehsil level who has a Munsif at the door will be deprived. So, let the civil court may carry on the jurisdiction and if still there is some problem that can be sorted out later. So, please do not close the doors for entry of dispensation of justice...(*Interruptions*)

No, whatever the corporate desires, the hon. Minister has brought this Green Tribunal Bill, but I do not know how much green it is. It says: "No civil court shall have jurisdiction to settle dispute" So, please do not bar people. Supposing, I am a serviceman and I am dismissed. I can go to the civil court and also go to the tribunal. I can take the help of article 226 and I can straightaway go, under article 34, to the Supreme Court of India. So, there are three jurisdictions. So, please do not stop this matter here.

Then one last thing – although it is a very short time – is that the execution machinery should be very sharpened like in DRT Act. Suppose you impose a fine, if the fine is being recovered as a civil court jurisdiction, then it will take another 10 years. So, have strong, sharpened teeth for execution. In consumer courts etc., execution machinery is very time taking, so nobody is going. Whatever it may be, I can sit and give more detailed comments on this. Supposing there is an order of penalty, punishment, money or whatever it may be, it should be very strong; the time lag should be avoided.

It is not the Act, it is the zeal that is behind, that is implementing, that will matter. Thank you very much for giving me time to speak.

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): Mr. Chairman, Sir, I will be responding to all the suggestions made by the hon. Members in my reply. But I want to clarify one thing very clearly today. Community control over natural resources will continue. This Bill will not destroy or weaken community control over natural resources, particularly in tribal areas. There should be no ambiguity on this score; community control on resources particularly in tribal areas – because this is the concern of many Members who have mentioned it – will not be weakened. ...(*Interruptions*)

SHRI VIJAY BAHADUR SINGH : Mr. Chairman, Sir, under Section 133 of the CrPC, if my neighbour's generator is creating a loud noise, I can file a complaint before the Magistrate and can get him three months' imprisonment. So, please continue those community control or other laws open. Otherwise, you will bar everybody and this Tribunal will not be able to do the justice.

SHRI S. SEMMALAI (SALEM): Thank you, Mr. Chairman, Sir, for giving me an opportunity to speak on the Bill. I welcome the introduction of the National Green Tribunal Bill, 2009 as it would pave way for expeditious disposal of civil cases relating to the environmental protection. With environmental protection, ecology preservation and afforestation getting pre-eminence, I have my own doubts whether the setting up of one Tribunal, though it is stated that it is sitting in five places, is sufficient to handle all cases and disputes which are ever on the increase. The Bill is drafted in a suitable manner, added with a number of clauses. There are some discrepancies here and there. I think, these may be sorted out and resolved before passing the Bill.

Hon. Minister may be pleased to see Section 6 of the Bill. Section 6, Clause (3) of the Bill provides for the appointment of Judicial Members and Expert Members of the Tribunal on the recommendation of such Selection Committee and in such manner as may be prescribed. But my submission is that no mention about the Members of Selection Committee is made in the Bill. Nowhere it is stated or explained. So I suggest that the composition and nature of Selection Committee for making recommendation on appointment of Judicial and Expert Members be specified in the Bill itself. That is my submission.

It may also be made clear whether the recommendation made by the Selection Committee is binding on the Central Government or not. Also, whether any discretion to reject the recommendations of the Committee rests with the Centre may also be incorporated in the Bill.

One more suggestion I would like to make. In the present form, the Expert Members are mostly drawn from the retired Civil Servant groups.

Already while these members who were being in the Government service had failed to tackle the environment issue. Putting them back in the Tribunal will serve no purpose. I would request the hon. Minister that the Tribunal should not be converted into a habitat for the retired civil servants.

There is no provision for Ecologists, Environmentalists, Civil Societies and NGOs to become expert members of the Tribunal. So, experts from various disciplines should be appointed to make the Tribunal really an effective mechanism to tackle this issue.

Some Members have expressed their doubts about this Bill. So, the hon. Minister has to clear the doubts of the Members. Their fear is that it may be used against the Tribals. At any cost this Act should not be misused against the Tribals.

I would like to take this opportunity to congratulate our hon. Minister for the issuance of moratorium on BT Brinjal.

Coming to this Bill, I would request the hon. Minister to consider my suggestion and make a suitable amendment in the Bill.

With these words, I conclude.

MR. CHAIRMAN : The next speaker is Shri Jayant Chaudhary.

Shri Jayant, your time is up to 3.30 p.m.

SHRI JAYANT CHAUDHARY (MATHURA): Mr. Chairman, Sir, I stand to speak on the National Green Tribunal Bill.

It seems that the very usage of the word 'green' in the name of the Tribunal is perhaps to convey a strong message that the Tribunal, the Ministry and the Government is here to protect the environment and to address the wrongs and to just add nation's growth trajectory to be well attuned to the need for equity, sustainable development and environmental consciousness. So, I welcome the usage of the word 'green' in the name of the Tribunal. Especially because our country is seen as a developing country; largely rules, procedures and laws related to environment have then given consideration only in passing.

I read that the Minister himself had recently commented on the high rate of environmental clearances that are granted in our country. There are so many examples, that I want to give, of political will and industrial might coming together in making institutions that are meant to protect the environment appear as mere by standards.

You know what happened in Uttar Pradesh with acres and acres of erstwhile green areas being converted into self-serving, concretized memorials and parks. You have a proposal in Andhra Pradesh for conversion of reserved forest area into a

memorial. In today's paper, I read about 70,000 trees being felled in Ghaziabad's lone forest area, according to a Report by the Ministry of Environment. So, seriously in some quarters, it is actually said that MoE should be branded MoEC, that is, Ministry of Environmental Clearances. In that light, I think, there is a need for a redressal mechanism which is accessible to the common man.

Also we must give certain attention to the legislation that is already there, to the institutions that have already been created in this space. Previously Members have commented on NEEA and NET. They have really been like mythical yeti and unicorn. They have been on paper but they have not been there as institutions.

About NEEA, there was an RTI activist who found out that none of the members actually did any site visits. They went to Shirdi and Benaras on religious tourism, nothing to do with any investigations they were actually carrying out. So, given that experience, we do acknowledge the need for a redressal mechanism but then the question does arise that where previously we have failed, how this new Act signify a change in regime, a change in the thought regime, if I may say so.

I would also like to point out – given the experience of NET and also recently a publication came out with an article on this issue – that there are several Acts enacted by Parliament and they are not being notified. In fact, since 2004, three legislations passed by Parliament have not been notified. Also selective notifications are undertaken.

In the PNGRB Act, for instance, there was a selective notification. In the Food Safety Act, there was a selective notification done by the Ministry. Therefore, Section 1 sub-section (2) is the standard practice now, that is, to leave it to the discretion of the Central Government. When will the Act come into force? But I would urge the Minister – since he wants this Tribunal to see the light of the day – why not create a challenge for himself and for the Ministry and set a time limit by when this Act will come into force?

About the reach and scope of this Tribunal, prior to me several Members have voiced their doubts. I think I am in agreement with most of the issues that have been raised about the community at large being affected and about the use of words like 'substantial' in the law, which would, perhaps, restrict the application and the reach of the Tribunal to a lot of people, specially individuals. The preamble of this Bill states about the need to protect the right to life as enshrined in the Constitution of India. But at the same time, we are restricting individuals from approaching the Tribunal. So, that is a big question mark.

Also coming to the composition of the Tribunal, this point has been made again and again but I would just like to join the list of people. The Government made a point in the Bill that people with administrative experience of 15 years and up to five years in dealing with environmental matters in the Central or State Government or in a reputed national or State level institution can also be expert members. It will be really a magic act if you can pull them out of the hat because I cannot think of any real State level or Central level institutions that have really upheld, what is needed, the laws of the land for the protection of the environment. So, where are you going to get these capable administrators? Actually, it has been their culpability. It is because of the lack of a strong political will and administrative capabilities that we are actually today debating on the need for a Tribunal.

Also, the definition of an aggrieved person includes people who have not been given clearances. Of course, the laws of natural justice do mean that all parties should get a hearing but when there is a typically poor person, who is an affected party, and on the other hand you have a big corporate house and if you let both of them approach the Tribunal, I am afraid that most of the time the Tribunal is going to spend on listening to perpetrators of crime rather than the aggrieved parties.

Also, this point has been made. Again, I am going to repeat it. It is about the penalties that can be imposed. There is no provision in the law about the right of the Tribunal to revoke licences, the take away clearances that have been granted. So, in most cases, especially, for corporates it is a big money of Rs.25 crore. The economic benefit that would trickle down from wilful contravention of law will far outstrip any penalty that could be imposed on them.

I am aware of the time shortage. In the end, I would just state that the meek shall inherit the earth but whatever is left offered after the greedy have done. The water is getting polluted. Forests are diminishing. Our food chain is getting polluted. Here, the Government has a unique opportunity to create institutions, systems, processes, rules and laws which can actually lead to a change in our growth pattern and make it one that enables sustainable development.

We have the shame and agony of Bhopal in our nation's history. Sir, 1.2 lakh people are still suffering from ailments because of exposure that they suffered and that experience also shows us the varying corporate response to such tragedies. Dow bought the Union Carbide in 2001 and asbestos workers in Texas were given 2.2 billion dollars in aid and that same company till today says that we have no culpability, no obligation for Bhopal gas tragedy victims. Therefore, to end my speech, any legislation in the environmental space must also pass the litmus test.

MR. CHAIRMAN: Mr. Jayant Chaudhary, you have half a minute. Otherwise, you will have to be on your legs for a long time.

SHRI JAYANT CHAUDHARY: I am concluding. It must categorically state and mean that the main objective of the law should be that incidents and tragedies like Bhopal do not happen again.

SHRI JAIRAM RAMESH: Hon. Members have made a number of important suggestions. I will take note of them. Even though they may not be part of the official amendments, I have a completely open mind on this issue and I will not hesitate to actually withdraw certain Sections. I am sensitive to the concerns that have been expressed that we are giving in this law a window for those whose clearances have been rejected to come back and have it reviewed. I assure the hon. Members that when I reply, I will revisit this section, and if need be, I will withdraw this section.
