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**Title:** Disapproval of the Merchant Shipping (Amendment) Ordinance, 1998 (No.7 of 1998) and Merchant Shipping (Amendment) Bill, as passed by Rajya Sabha. Statutory Resolution - Withdrawn Motion for Consideration - adopted

18.07 hrs

MR. CHAIRMAN: The House shall now take up item Nos.30 and 31 together, namely, the Statutory Resolution regarding disapproval of the Merchant Shipping (Amendment) Ordinance and Merchant Shipping (Amendment) Bill.

Shri Basu Deb Acharia.

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

"That this House disapproves of the Merchant Shipping (Amendment) Ordinance, 1998 (No.7 of 1998) promulgated by the President on 23 April, 1998."

Madam, the Merchant Shipping (Amendment) Bill, 1998 was overdue. The Ordinance was promulgated and it was necessitated as the ratification of Convention No.147 of the International Labour Organisation was required. There is no system of working hours for the seamen who are working in ships. Now, the ordinary hours of work for all seamen shall not exceed 48 hours in a week. Previously, there was no system. Even the seamen were to work for months together. There was no limit and even after the ILO Convention, this was not ratified by the Government of India.

Another problem which the seamen are facing is about disputes. The Industrial Disputes Act has no jurisdiction over it nor the Shipping Board can settle the dispute. So, there should be some system in regard to settlement of disputes. But this Bill is not helping them in regard to settlement of disputes.

The amendment to section 89 of the principal Act is:

"to transmit the complaint of any dispute of a foreign seaman of a vessel, registered in a country other than India, in Indian territorial waters, with the master, owner or agent, to the competent authority of the country of registration and a copy of such complaint shall be forwarded to the Director General, International Labour Organisation office."

This system will take time. Unless some foolproof mechanism is evolved in regard to settlement of dispute, the Indian seamen working in foreign vessels or Indian seamen working in Indian vessels will continue to suffer. How can this problem be resolved? I would request the hon. Minister to dilate on that point while replying to the debate. If necessary, another legislation can also be brought forward in order to mitigate the sufferings of the seamen.

I felt that there was no need for promulgation of the Ordinance. The Government could have come forward with a legislation without promulgation of the Ordinance. I hope he will explain what was the necessity for it. Why was the Ordinance promulgated in the inter-Session period? Why was the legislation not brought forward before the House without promulgation of the Ordinance?

">THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SURFACE TRANSPORT (DR. M. THAMBI DURAI): Madam, I beg to move:

"That the Bill further to amend the Merchant Shipping Act, 1958, as passed by Rajya Sabha, be taken into consideration."

With your permission, I would like to say a few words while moving the Merchant Shipping (Amendment) Bill, 1998.

India ratified International Labour Organisation Convention No. 147, which was adopted in 1976, on 26th September, 1996 and it came into force in India after a period of twelve months, that is, on 26th September, 1997. The Convention prescribes a set of minimum standards, including standards relating to safety, social security and shipboard conditions of employment and living arrangements, to be observed by States in respect of ships registered in their territory.

Indian law and practice substantially comply with the provisions of the Convention. However, in order to conform, in full, to the requirements of the Convention, the following amendments were considered essential:

(i) Earlier, the Merchant Shipping Act did not specify fixed hours of work for seamen. However, as per the bilateral agreement between the shipowners and the seafarers, the normal hours of work are eight hours a day from Mondays to Fridays and four hours a day for Saturdays, making a total of 44 hours per week. The ILO Convention lays down for the member countries to specify the working hours. Keeping the practice for the seamen on Indian ships, it is proposed to provide, in the law, for the first time, that ordinary hours of work for seamen shall not exceed 48 hours per week. The incharge of ship will be liable for payment of fine, at the rate of double the average rate of wages payable per hour, beyond 48 hours, in case of contravention of this provision.

(ii) Earlier, the law provided only for investigation of complaints in respect of Indian seamen working on Indian registered ships by the Shipping Master. However, for the first time, as per Convention, it is being provided that Shipping Master may receive complaints from foreign seamen, working on a foreign vessel or by Indian seamen, working on a foreign vessel, while they are in Indian waters. It is being made a part of duty of Shipping Master to transmit the complaints, so received, to the Competent Authority of the Registering country of the ship and a copy of this complaint will also be endorsed by the Shipping Master to the Director General, International Labour Organisation, Geneva.

The Ship Masters, in accordance with the instrument of Convention, ratified by India, has also been nominated as the competent authority for receiving such complaints from the competent authorities from other countries.

Whenever any shipping casualty occurs, resulting into loss of ship or loss of life or material, a preliminary enquiry is made and thereafter the Government may refer it to the Judicial Magistrate for a formal investigation. The Magistrate submits the formal investigation report to the Government. Earlier, the contents were not required to be made public. A provision is being made for this report to be published in the Official Gazette for the information of the public.

Since the ILO Convention No. 147 was to come into force in India with effect from 26/9/97 and Parliament was not in Session, it was decided that the four amendments may be given effect to, by way of a promulgation of an Ordinance so as to meet our international commitments. Accordingly, an Ordinance was promulgated on 26/9/97. Thereafter a notice was given to the Rajya Sabha for introduction of the Bill to replace the Ordinance but could not be introduced in the Winter Session in 1997 due to the circumstances prevailing then. Therefore, in order to have its continued effect, the Ordinance had to be re-promulgated twice, the last being on 23/4/98.

The Bill has been passed by the Rajya Sabha on 3/6/98 and now is in this House for consideration.

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Merchant Shipping Act, 1958, as passed by Rajya Sabha, be taken into consideration".

">SHRI MANORANJAN BHAKTA (ANDAMAN AND NICOBAR ISLANDS): Madam Chairperson, I rise to participate in the discussion on the Merchant Shipping (Amendment) Bill, 1998. The Merchant Shipping Act, 1958 is the main Act for acquisition of vessels and operation of vessels in India. I am fully aware that this particular piece of legislation is having a very limited purpose and it does not take into account the entire gamut of the Merchant Shipping Act. But after the hon. Minister has made a statement, certain things have come to light and I would like to raise certain issues relating to that.

Madam, Section 142, sub-section 1(a) of the Bill says and I quote:

"Any complaint or dispute received by the Ship Masters from an Indian seaman on a vessel registered in a country other than India in Indian territorial waters with the Master, owner or agent..."

That is all right. But there are a large number of Indian flagships where Indian seamen are working and they have a lot of problems and there are a lot of disputes as well. Sometimes even the ships are held up in different ports because of disputes of the seamen. There is no adequate arrangement through which these problems could be redressed so that the shipping services could be run uninterruptedly.

Sir, I come from an area where shipping is our lifeline. We come across problems in regard to shipping every now and then and we also are quite accustomed about the problems. What I feel is that by bringing in this piecemeal legislation, the Government would not really be able to do justice neither to the crewmen or the seamen nor to the passengers and shippers. So, a comprehensive Bill has to be brought in to redress the problems of the seamen. After all, this Act was made in the year 1958. Over a period of time a lot of changes have taken place; Indian tonnage has increased and Indian shipping has gone far ahead. Therefore, to cope with the changing needs, it is necessary that a comprehensive Bill is brought before this House which can take care of the problems facing the shipping industry.

I know what is happening. Sometimes, for two or three months together the ships are held up and people cannot go to the mainland. Even the cargo services are disrupted. When such is the position, it is the responsibility of the Ministry of Surface Transport to see that it is improved. Necessary legislation can be brought in this regard so that all the problems can be taken care of.

Now, I come to the question of issuing CTC. It is the responsibility of the Director-General of Shipping. But, today - you may take any field - there is corruption everywhere. To get a CTC issued, you require about Rs.50,000 to Rs.70,000. This is going on in shipping merchant offices. Until and unless the Minister goes through all these things, he cannot do justice to the seamen who are working in the ships.

I would like to raise another very important point. Specifying 48 hours as working hours is a welcome provision. We all support it. There is no dispute in this regard. But, there are passenger ships whose voyage take about 10 to 12 days. So, for these 10-12 days, the seamen work in a particular vessel. They stay in that particular vessel for all these days. So, a clear cut provision should be made as to what will be the position. This kind of disputes are arising from time to time. Everything should be made clear so that neither the seamen nor the passenger nor the ship owners suffer.

I would say that the Bill has been drafted in a hurried manner. In the penal provision, the Government has to make it clear as to how this provision would be given effect to. Suppose, a ship runs for five days, the working hours of the seamen working in that particular ship would be much more than the prescribed hours. In the midst of the sea, the ship cannot stop and change the seamen. So, all these things should be specifically clarified.

As I have already said, this Bill has a very limited scope. There are a number of problems in the shipping industry. It is necessary that the Government should give a commitment to the House that it would look into all these things and bring a comprehensive Bill before the House so that the House has enough opportunity to discuss it in full. Then only the shipping industry will be benefited by this.

I do not wish to take much time of the House. I would only request the Minister not to be contend with the passing of the Bill right now but think for the future of the shipping industry. He should make an assurance that he would bring a comprehensive Bill before the House, looking at all the pros and cons.

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श्री चन्द्रशेखर साहू (महासमुन्द): माननीय सभापति महोदय, अभी जिस बिल पर चर्चा हो रही है, उसके बारे में माननीय मनोरंजन भक्त जी ने कहा कि यह बिल बहुत जल्दबाजी में लाया गया है। उनको मालूम होना चाहिए कि यह बिल पहले तीन बार अध्यादेश के रूप में प्रख्यापित हो चुका है। इसलिए यह कहना उचित नहीं

है कि यह बिल बहुत जल्दबाजी में लाया गया है। आज के प्रश्न काल में भी समुद्री विज्ञान के सम्बन्ध में एक प्रश्न आया। उसमें सरकार की ओर से प्वाइंट नम्बर १० में इनफ्रास्ट्रक्चर इन शिप्स पर काफी प्रकाश डाला है।

इस विधेयक में मर्चेंट शिपिंग का बहुत ज्यादा महत्व है। इस दृष्टि से आई.एल.ओ. में भारत ने एपीयर होकर हस्ताक्षर किए। आई.एल.ओ. की कनवेंशन १४७ के तहत जरूरी हो गया था कि एक्ट में संशोधन किया जाए। सी मैन की जो वर्किंग कंडिशन है, उसमें अन्तर्राष्ट्रीय श्रम मानक के तहत अपेक्षित सुधार किया जाए। उनकी वर्किंग कंडिशन को सुधारने के लिए यह बिल लाया गया है। मैं समझता हूँ कि इसको सर्वसम्मति से पास किया जाना चाहिए। इस दृष्टि से मैं तहेदिल से इस विधेयक का समर्थन करता हूँ और गुजारिश करता हूँ कि पूरा सदन इसको सर्वसम्मति से पारित करे।

DR. M. THAMBI DURAI: Madam, I am grateful to the hon. Members who gave various suggestions for the improvement of our shipping industry. At the outset, I would like to say that this Bill has a very limited scope. As suggested by the hon. Members who spoke, we would bring in amendments to this Act in due course of time. I do agree that the Merchant Shipping Act, 1957 is a very old one. I have taken note of all the suggestions given by the hon. Members and I will certainly bring forth a comprehensive Bill in due course.

Shri Manoranjan Bhakta has mentioned the problem of corruption which he came across. He stated that some officials are involved in corrupt practices. I assure the House, through you, Madam, that we will take necessary action and try to do what is needed for putting an end to this kind of corrupt practices in the system.

This clause which is being included will help our shipping industry in ensuring the welfare of seamen and seafarers. The countries which have signed and ratified the ILO Convention have to ensure the welfare of their seafarers. Taking all that into consideration, I would request Shri Basu Deb Acharia, who is a well-known labour leader himself, to withdraw his Statutory Resolution as the Bill is meant only to ensure the welfare of labourers and seamen.

श्री बसुदेव आचार्य (बांकुरा) : सभापति महोदय, आई.एल.ओ. की कनवेंशन १४७ का रैटिफिकेशन करना जरूरी था। इसके मुताबिक मेरे दो संशोधन हैं - एक सी मैन के ड्यूटी आवर्स और दूसरा उनके डिस्प्यूट्स कैसे सैटल किए जाएं? इनके बारे में मैंने एक सुझाव रखा था। इंडस्ट्रियल डिस्प्यूट एक्ट के तहत या कोई दूसरा तरीका निकाल कर डिस्प्यूट सैटल हो सकते हैं या नहीं?

दूसरा सवाल मनोरंजन भक्त जी ने ड्यूटी आवर्स के सम्बन्ध में उठाया कि ४८ घंटे के ड्यूटी आवर्स को कैसे लागू किया जाए?

In the implementation of these duty hours some problems would also crop up.

उसको कैसे टैकल करना है, आपको वह भी देखना होगा। हमारी मांग है कि जल्दी से जल्दी सी मैन के वेलफेयर के लिए एक विधेयक लाया जाए। यह एक अच्छा कदम है। हम इसका समर्थन करते हैं लेकिन भविष्य में एक कॉम्प्रीहेंसिव बिल लाना चाहिए जिससे उनकी प्राबलम्स सॉल्व हो सकें। यही कहते हुए मैं स्टेट्यूटरी रैजोल्यूशन को वापस लेता हूँ।

SHRI BASU DEB ACHARIA : I seek leave of the House to withdraw my Statutory Resolution.

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

The Resolution was, by leave, withdrawn.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Merchant Shipping Act, 1958, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

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

The question is:

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

MR. CHAIRMAN : The question is :

"That Clause 1, The Enacting Formula and the

Long title stand part of the Bill.

The motion was adopted.

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

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DR. M. THAMBI DURAI: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

--- 18.33 hrs (Shri Basu Deb Acharia in the Chair)

MR. CHAIRMAN: Now Items 32 and 33 will be taken up together.

Now, general discussion on the Budget (General) for 1998-89.

... (व्यवधान)

श्री नरेन्द्र बुडानिया (चुरू) : सभापति महोदय, बजट पर डिस्कशन शुरू हो रहा है और वित्त मंत्री जी यहां नहीं है।

... (व्यवधान)

श्री पी. शिव शंकर (तेनाली): सभापति महोदय, यह सदन की प्रथा रही है कि मंत्री जी सदन में उपस्थित होते हैं।

... (व्यवधान)

संसदीय कार्य मंत्री तथा पर्यटन मंत्री (श्री मदन लाल खुराना): वित्त मंत्री जी राज्य सभा में है।

... (व्यवधान)

श्री पी. शिव शंकर : यह सदन की प्रथा रही है।

... (व्यवधान)

श्री नरेन्द्र बुडानिया : आप पहले उन्हें बुलवाइये।

श्री मदन लाल खुराना : ठीक है, मैं अभी उनको जाकर देखता हूँ।

... (व्यवधान)

डा. शकील अहमद (मधुबनी) : आप राज्य सभा से उन्हें बुला लीजिए।

... (व्यवधान)

SHRI MURLI DEORA (MUMBAI SOUTH): We cannot start the discussion. ... (Interruptions)

MR. CHAIRMAN: The Minister of Finance will come to the House. In the meantime, Shri Sompal will make a Statement.

... (Interruptions)