

the intention of Shri Haroobhai Mehta is good, but we cannot restrict the jurisdiction of the court. What I am stating is that

[English]

"Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment."

There should be sufficient reasons in writing.

[Translation]

We have said "for sufficient reasons in writing." Had we gone beyond this it would have meant imposing too much restrictions on the judiciary process, which would not have been proper. This is against judicial norms and therefore, it is not right. There is no question of prestige here. It is not possible to accept this amendment. Therefore, it is my humble request to him to withdraw it.

[English]

MR. DEPUTY SPEAKER: Are you withdrawing your amendment?

SHRI HAROOBHAI MEHTA (Ahmedabad): I do not agree with the reasoning of the Minister. But since the Rajya Sabha has already passed the Bill, I want to withdraw the amendment.

MR. DEPUTY SPEAKER: Has Shri Mehta leave of the House to withdraw his amendment?

SEVERAL HON. MEMBERS: Yes.

Amendment (No. 1) was, by leave, withdrawn

MR. DEPUTY SPEAKER: Since there are no amendments to clauses 10 and 11, I would put clauses 9 to 11 to the vote of the House. The question is:

"That Clauses 9 to 11 stand part of the Bill."

The motion was adopted.

Clauses 9 to 11 were added to the Bill.

MR. DEPUTY SPEAKER: 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 Title were added to the Bill.

SHRI BINDESHWARI DUBEY: I beg to move:

"That the Bill be passed."

MR. DEPUTY SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted.

17.35 hrs.

MONOPOLIES AND RESTRICTIVE TRADE PRACTICES (AMENDMENT) BILL

[English]

THE MINISTER OF INDUSTRY (SHRI J. VENGAL RAO): I beg to move:**

"That the Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969 be taken into consideration."

The Monopolies and Restrictive Trade Practices (Amendment) Bill, 1988 is a short

**Moved with the recommendation of the President.

[Shri J. Vengal Rao]

Bill bringing in only two amendments of urgent nature to the Monopolies and Restrictive Trade Practices Act, 1969.

The large industries have an important role to play not only in commercialising the technology developed in their own in-house Research and Development Centres, but also those developed in national laboratories and institutions which are financed from public funds. However, presently, the incentives and liberalisation measures for companies in respect of commercial exploitation of indigenously developed technology are not available to companies which fall within the purview of the MRTP Act. The amendment to Section 22A proposed in the Bill seeks, therefore, to exempt MRTP Companies from the operation of the provisions of Section 21 and Section 22 of the Act when they embark upon substantial expansion or establishment of a new undertaking, based totally on technology developed in our country. However, I may point out that the Central Government would have the powers to impose such terms and conditions as it may consider necessary while issuing the notification under Section 22A exempting the MRTP undertakings under the proposed provision.

The second amendment relates to rule-making power of the Central Government. As at present, the rule-making power under Section 67 of the Act does not include the power to give retrospective effect to the rules. Clause 3 of the Bill seeks to amend Section 67 of the Act to empower the Central Government to make rules in relation to the conditions of service of the members of the Monopolies and Restrictive Trade Practices Commission retrospectively to a date not earlier than the 1st day of January, 1986. The Proposed amendment of Section 67 is aimed at eliminating this administrative difficulty.

I now move that the House be pleased to take up the Bill for consideration and to pass the same.

MR. DEPUTY SPEAKER: Motion moved:

"That the Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969 be taken into consideration."

SHRI C. MADHAV REDDI (Adilabad): Mr. Deputy-Speaker, I rise to oppose this Bill, tooth and nail.

SHRI K. S. RAO (Machilipatnam): Tooth and nail?

SHRI C. MADHAV REDDI: Yes. I will come to that.

The Minister just now said that this is a very small and innocuous Bill and that only one or two clauses are there, or only two amendments are being brought.

Section 22A, which is being amended, obviously refers to only certain indigenous technologies in the country developed by the industrialists, to be exploited by the industrialists and monopolists, to be promoted so that the Government of India can issue a notification exempting such people who want to utilise and experiment these technologies to produce goods from the operation of the Monopolies and Restrictive Trade Practices Act, or Section 21 and 22 of the Act, to be precise.

This is the crux of the whole thing. But, Sir, it is not so simple as it is made to appear before us. We know that this Act has been - since its inception - amended seven times. This is the eighth amendment. In the same Parliament we have amended this Act twice, once in 1985 and again in 1986. I will go into that later. But, all these seven amendments which had been brought about - what are those amendments? I was going through each and every amendment which was made to amend this Bill, and I find all those amendments related to giving concessions to the monopolists.

SHRI SOMNATH CHATTERJEE (Bolpur): Because it is a monopoly Government.

SHRI C. MADHAV REDDI: There is not a single amendment which sought to make or aimed at achieving the objectives of the original Act. Not a single amendment! All

these amendments had been only extending various concessions to the monopolists to set up industries in certain backward areas, etc., etc. What were the objectives of this Act when it was passed in 1969? The objectives as adumbrated in the Directive Principles of State Policy of our Constitution, formed the basis for bringing this Bill which was later on made into an Act. The Monopolies Commission which was set up in 1970 was to ensure that the ownership and control of material resources of the community are so distributed as best to subserve the common good, that the operation of the economic system does not result in concentration of wealth and means of production in the common detriment. Let us see to what extent these objectives have been achieved for the last 19 years i.e. the period of operation of the Act. I am afraid, the objectives have not been fulfilled at all. As a matter of fact, during the last 19 months more and more concessions have been given. In spite of grumbling by the big business, they were in a position to extract concessions from the Government, they were in a position to expand, they were in a position to incorporate company after company, they were in a position to increase their assets many many fold - ten fold or 12 - fold since the enactment of this legislation. Finally today we find that the more you give the more they ask and, therefore, the whole objective of the Act is frustrated. In 1985 we brought an amending Bill through which we increased the upper limit of the value of assets from Rs. 20 crores to Rs. 100 crores. Again we passed another Bill in 1986 giving certain concessions. The story of this MRTP Act is the story of continuous concessions to the big business in the name of increased production. I know that we are all obsessed with production. Certainly we want production but production with social justice. That is our objective. If there is more production and there is no social justice attached to it, then the production is not so important.

We wanted that there should be restrictions on the growth of monopoly, restrictions on the uninterrupted growth of industrialists who can concentrate the entire wealth in their hands. But have we

achieved these objectives? I am sorry to say that those objectives have remained a very distant goal. We have not achieved any of these objectives. Every time we have some excuse or the other because we are pressed for production. If in some particular sectors the production is lagging behind, we say, let us give concessions to the Monopolists and let there be more production. But we always lost sight of the question of social justice. Whether there has been equal distribution, that we have never bothered.

The Act as originally conceived, stated that there should be an annual report placed on the Table, and that report should be discussed. I have not known any occasion when the report of the MRTP Commission was discussed on the floor of the House. I was going through some of the reports which were earlier presented. In the 1986 report, chapter after chapter, it was stated that several applications which were received from the monopolists had not come before the Commission at all. Very few applications for industrial licenses and other concessions had come before the Commission. Decisions were taken by the Government, not by the Commission. They were never referred to the Commission. Not even the Pepsi Cola case was referred to the Commission.

DR. DATTA SAMANT: What about Coca Cola?

SHRI C. MADHAV REDDI: It is going to come. But the Pepsi Cola is already cleared without the application being referred to the Commission for its opinion.

SHRI SHANTARAM NAIK (Panaji): But nothing prevented the MRTP Commission from taking *suo motu* cognisance which is provided for in the Act.

SHRI C. MADHAV REDDI: When an application came, when the file was being put up, at one stage or the other it was the duty of the Government to have referred the case to the Commission whether they are going to violate any of the provisions of this Act. That has not been done.

[Shri C. Madhav Reddi]

Sir, I have nothing to say about the second amendment or the third amendment which are simple amendments. I have no dispute with them. But the main amendment to Section 22A opens the floodgate for the monopolists, though it looks simple... (*Interruptions*). I agree that in the wording it is a simple amendment. May be you have not examined it thoroughly. I do not blame you for this. But I am going to point out how it is going to open the floodgate. We all have experience of the industrialists as to how they operate. Of course, I have all praise for the technology being developed by our Research labs; for whatever is being done in the field of technology, but I know that many of these technologies which are being developed by these forty and odd research laboratories which are operating under CSIR in the country, are not workable. They do not have facilities for developing technologies on a pilot scale. Many industrialists take these technologies by negotiating with them. They take them and then smuggle technology from outside which is not shown on the books. Actually it is a technology borrowed from outside but shown as an indigenous technology developed by the Regional Research Laboratory, Jorhat or by the Regional Research Laboratory, Hyderabad or any other laboratory (*Interruptions*).

SHRI J. VENGAL RAO: They are Government laboratories, not MRTP or private laboratories. They are under the scientific departments.

SHRI C. MADHAV REDDI: Yes, I know that they are all Government laboratories controlled by CSIR; about forty of them are there. But I am telling what is actually happening because they are interested in selling their technologies. Through NRDC, these technologies are transferred to industrialists and in the name of these technologies, they smuggle technology from outside, smuggle it and then they present it as if it is the indigenous technology. Based on that, I can tell you that hundreds and hundreds of industries are going to come because you have really opened the floodgate. I can tell

you about the technology for making edible oil from rice bran, which is developed by Anantpur OTRI. But then, the Anantpur technology does not work. It is only on paper. The real technology which is in Japan, where edible oil is being manufactured from rice bran, will be brought. I am giving a typical example of how the technology is going to be smuggled by the big business and how this is going to be shown as an indigenous technology, and that is how this is likely to open the floodgate. I am sorry, the Government has not examined this aspect properly.

So many amendments to the MRTP had been brought earlier but this is the most serious amendment which is likely to open a floodgate in the country and many big industrialists will come forward to set up industries. Why do you have this Act at all? You scrap it. If this Government does not have a will to achieve the social justice with production, if you are only interested in increasing production, certainly you can open the floodgate. Let the industrialists from all over the world come. Let there be a free enterprise in our country. That is what you want really. The Government may be feeling that 'even in Russia now there is a talk of Perestroika, why bother about all this? Why these restrictions? Why socialism? You forget about socialism now. Let us have only liberalised production.' Well, say that, I can understand that. But why these pretensions of socialism? You pretend that you are going to aim at having a socialist society. But then you are opening floodgates with your liberal policies (*Interruptions*). It is on this ground that I strongly oppose this Amendment, and I request the House to reject this Bill and not proceed with it.

SHRI SHANTARAM NAIK (Panaji): Mr. Deputy-Speaker, Sir, I do not know whether the hon. Minister has termed this as a simple Amendment, for I did not listen to that part correctly. But I would myself say that the Amendment is not a simple one, but nevertheless it is needed and it is a just Amendment because through this one-line Amendment the Ministry has sought to give impetus to the indigenous technology. Reddiji has said that in the last seven Amendments that the Government had

moved, all were in favour of monopolistic trade, that means against the objective of the Bill. Let me first, at the outset, say that this Bill in 1969 was enacted by our Government and none can say at any stage of time that anybody or any pressure from the Opposition side prevailed so much that the Government has no other alternative but to enact such a law. It was our will, the will of the Congress Party, to restrict the monopolistic trade in this country that gave birth to this Bill. And it is again our will, our shrewdness, our rationale which from time to time requires that the laws we create are sometimes loosened in the interest of the country.

Mr. Deputy-Speaker, Sir, nobody would say, I do not know, Reddiji did not say that, I would have been happy if he had said that he agrees to the Amendment in principle. He did not say it. I expected him to say so because I am surprised he does not want to give boost to indigenous technology. He could have shown the way, but saying that this Amendment which tries to give boost to indigenous technology is totally bad because that will open floodgates is not correct. If floodgates are open, there is also a gate and that gate is provided in the law itself. It is not that automatically all those who come claiming that they would like to develop indigenous technology would be entertained by the Ministry. It is not so. It is only after deep scrutiny that respective cases will be cleared selectively. (Interruptions).

SHRI SOMNATH CHATTERJEE (Bolpur): I would like to know under which provision there will be further clearance after it comes within Section 22A, this new Amendment. Where will be the clearance?

SHRI SHANTARAM NAIK: What I submit is that this automatically does not mean that anybody who comes with a proposal to introduce or develop indigenous technology will be automatically cleared because Section 22A says:

"That Central Government may, by notification, direct that subject to such terms and conditions as may be specified in notification, all or any of

the provisions of Section 21 or Section 22 shall not apply to any proposal."

So, the notification has to be issued for the purpose of granting exemption. Otherwise, there was no question of clearance. The party has to go and satisfy all the conditions that it is an indigenous technology and that the Government will have its own policy as to in which matter, in which condition, a project is to be cleared under this particular section. But I would like the hon. Minister to tell the present mind of the Ministry with respect to the proposals that the Government would like to clear under sections 21 and 22A. That should be elaborated in his reply so that our *bona fides*, our objectives and what we have in mind are known to the country.

Secondly, I would, in fact, give a lot of importance personally myself to this Act itself, which the country enacted in 1969. The Preamble of this Act provides:

"This Act is to provide that the operation of the economic system does not result in concentration of economic power to the common detriment for the control of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matters connected therewith or incidental thereto."

With this loud objective, this Act was enacted in the year 1969. Eventually, from time to time, we had to undertake and enact certain amendments. Now section 22A is again a restrictive clause. It only seeks to add to the present liberalisation. The original section 22A(1) says:

"The Central Government may, by notification, direct that subject to such terms and conditions as may be specified in the notification all or any of the provisions of section 21 or section 22 shall not apply to any proposal --"

Now, there are various conditions and various cases which are mentioned here.

[Shri Shanta Ram Naik]

- (a) In respect of an industry or service specified in the notification

There is a proviso.

- (b) For the increase in the production of any goods or the provision of any services which are meant exclusively for export outside India; or

- (c) Which relates to an undertaking established or proposed to be established in a free trade zone.

In these specified cases, the Government would like to add one more clause, namely "(aa) which is based totally on technology developed in India". The operation of this Act in many years has made us believe that if our indigenous technology has to be developed, then this is one section which comes in the way. If the Government thinks, in the interest of technology development, here is an amendment required for the purpose of giving boost to the indigenous technology, then where lies the fault of the Government? As Reddiji said, if the flood-gate of applications is opened, if the flood-gate of proposals is opened and if the Government just grants the permission, without verifying whether that technology really is an important one or is indigenously developed one, whether the services or goods which are required to be developed are really necessary in the interest of the country and in the interest of the technological development or not, and if the Gov-

ernment issues permission point blank, then, one can understand..

MR. DEPUTY SPEAKER: Shri Shantaram Naik can continue his speech tomorrow. Shrimati Sheila Dikshit, the Minister of State in the Ministry of Parliamentary Affairs and Minister of State in the Prime Minister's Office, will now present the report of the Business Advisory Committee.

17.59 hrs.

BUSINESS ADVISORY COMMITTEE

[English]

Sixty-Second Report

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRIMATI SHEILA DIKSHIT): I beg to present the Sixty-second Report of the Business Advisory Committee.

MR. DEPUTY SPEAKER: The House now stands adjourned to reassemble tomorrow at 11 AM.

18.00 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, November 22, 1988/Agrahayana 1, 1910 Saka.