

[Translation]

MR. DEPUTY SPEAKER : Rules do not permit it and it will not be good to violate the Rules.

[English]

SHRI BHOGENDRA JHA : As I have come to know, only 12 papers had been submitted for today. In the ballot two had been lost.

MR DEPUTY SPEAKER: Every time only ten subjects will be taken for Submissions.

SHRI BHOGENDRA JHA That I have come to know

MR DEPUTY SPEAKER. Probably yours must have been eleventh or twelfth. In some other form you can try to raise this issue.

SHRI BHOGENDRA JHA : I will read it out. If it is fit enough, you can allow this

MR DEPUTY-SPEAKER : It is not the question of fit or otherwise. We do not decide that Whether eleven Submissions can be made or not, that is the question. When there is no precedent or when the rule does not permit it, I think the violation may not be good.

SHRI BOGENDRA JHA This is the last day, Sir. Next week there will be no business

MR DEPUTY-SPEAKER : It is true. In some other form you can raise this issue. The very purpose is to bring the matter to the notice of the Government

SHRI BHOGENDRA JHA . By this time I would have completed it.

MR DEPUTY-SPEAKER : It is not the question of saving the time. The question is, no such precedent has taken place so far. Only ten Submissions could be made and they will be brought on record

SHRI BHOGENDRA JHA . This has been decided upon very recently, the number of ten Submissions. That is good. Some limit has been put. I have no objection to it. But earlier, it was not so

MR DEPUTY-SPEAKER In some form or the other, you could bring it. I am sorry, I am hurting your feelings

SHRI BOHGENRA JHA Simply I seek your indulgence and the indulgence of the House. Am I permitted; Sir?

MR DEPUTY-SPEAKER Sorry. In some other form you can bring it on the floor of the House.

[Translation]

SHRI BHOGENDRA JHA : Thanks for it.

[English]

MR DEPUTY-SPEAKER The House stands adjourned to meet again at 2.45 p.m.

3.44 hrs.

*The Lok Sabha then adjourned for Lunch till forty-five minutes past Fourteen of the Clock.*

14.57 hrs.

*The Lok Sabha re-assembled after lunch at Fifty Seven minutes past Fourteen of the Clock.*

[Mr. Deputy Speaker in the Chair]

[Translation]

SHRI VIJOY KUMAR YADAV (Nalanda) : Mr. Speaker, Sir, I am on point of order. The money sanctioned for MP's local Area Development Fund should be released immediately because rainy season and elections are ahead. The scheme could not be implemented if this fund is not sent at earliest.

14.57½ hrs.

### TRADE MARKS BILL-CONTD.

[English]

MR. DEPUTY SPEAKER. Now, we shall take up item No 11-further consideration of the Motion in respect of the Trade Marks Bill. The time allotted to the subject is 3 hours. The time already consumed is 1 hour and 32 minutes. The balance time is 1 hour and 28 minutes

SHRI RAM KAPSE (Thane) Hon Deputy-Speaker, Sir I welcome this Bill with some reservations in mind. Whether there was necessity of bringing a new Bill or not, there cannot be two opinions. In the last thirty years the law was there, so many cases were decided. Even the trade was changed and it was absolutely necessary that new Trade Marks Bill was to be brought in. Then this renewal was necessary. But at the same time. I cannot understand the delay in the presentation and passing of the Bill.

This Bill was introduced on 19th April, 1993. On 31st March 1994, the Standing Committee submitted its recommendations, and today, 26th May 1995, we are discussing the Bill. This Bill was introduced on 19th April, 1993. On 31st March 1994, the Standing Committee submitted its recommendations, and today, 26th May 1995, we are discussing the Bill. It means that the Government was not at all serious about this Bill in the last two years. They never pursued it in the Standing Committee. Even after the Bill was brought to the Lok Sabha from the Standing Committee, they just ignored this Bill for a year or more. So, if the Government is not serious about the Trade Marks Bill till now, naturally we have a right to know whether the Government has something to do with GATT.

15.00 hrs.

I say this because the Bill was introduced in 1993, it was hastened up only in 1994 and only today we happen to be in a mood to pass it. I have a full list of questions raised in Parliament on GATT. The date is remarkable in the sense that the first question on this matter was asked on 1st March 1993 and after that only this Bill was introduced. After two years, say after the

signing of the GATT Agreement only, the Government has now become serious about this Bill.

I have one more comment to offer. I wonder whether the Government is really democratic in its functioning. We sent this Bill to the Standing Committee and there are some suggestions by some of the Members in the report of the Standing Committee which are totally ignored by the Government. I expect an explanation from the Minister concerned as to why they have ignored all those suggestions. Now, let us see the recommendations of the Standing Committee. The first suggestion is:

"Some Members of the Committee were of the opinion that the liberalisation of the trade marks legislation may provide an added advantage to the foreign multinational units. Instead, the policy should be to go slow in according recognition to foreign trademarks with a view to encourage initiative in the same or similar lines of production. They emphasised the need to make an effort to encourage the use of indigenous trade marks."

I am all the more concerned because as far as the Minister's speech is concerned, not a word is mentioned about this particular suggestion. I expect that at least at the time of her reply, she should tell us as to what they are doing about the multinationals vis-a-vis our own industry especially the small scale sector. How these small scale industries be saved from the onslaught of the multinationals which are entering the field?

I will now refer to the second suggestion with regard to inclusion of services in the jurisdiction of the Bill.

"They expressed the view that the Government should await the resolution of the current controversies that arose after the signing of the GATT Treaty and the agreement by the Western countries to provide satisfactory trade concessions on a reciprocal basis."

Yesterday, Shri Syed Shahabuddin has raised a point on this issue only. We would like to know whether you have taken enough care about this reciprocity. As far as GATT is concerned, just as a foreign industry registering its trademarks here, will the industries in India get reciprocity in those nations from where the MNCs have come over to India.

"Also, in view of the amendments required in the Indian Patent Act, 1970, consequent upon the GATT Treaty, they felt that the new legislation should await the change in the Patent Law."

Now, the Minister is aware that Patent Law is yet to be passed in Rajya Sabha. The Government is not making sincere attempts to get the Patent Law passed in Rajya Sabha. We do not know for what reason they are waiting. If at all, the Patent Law is not passed in the Rajya Sabha, and if the Government plans to go ahead with this Act what about this suggestion? What is your response to this particular suggestion of the Standing Committee?

Then Sir, there are many other suggestions. I once again request the Minister to go through the report of the Standing Committee in the light of the speeches made here since yesterday. As far as these points are concerned, she may at least let us know as to what the Government's views are.

Sir, I would like to have some more information. As far as the MNCs are concerned, I would like to know the number of multinationals that are entering into Indian market and registering their trade mark. This information would be beneficial to our country as far as the entry of the multinationals into the Indian market is concerned.

Then, I would like to know about the joint ventures that took place before and after 1985. Now, there is a new trend being observed in India that is, the multinational companies who have entered into a joint venture with the Indian industrialists are in a mood to do away with them. Now, 'Lehar-Pepsi' would be sold with the name of 'Pepsi' only, and 'Lehar' would be dropped. In case of 'Maruti-Suzuki', 'Maruti' would now disappear with the entry of a new model called 'Zen'. So, this is a new trend. In a way, the multinational companies are ditching the Indian industries, at least, as far as the joint endeavours are concerned. Are we in a mood to safeguard the interest of Indian industries, especially the small scale industries? The small scale sector is in panic. With the multinational companies entering into so many fields, the small scale industries are in panic. If the hon. Minister goes through the advertisements in the financial papers, she would find many industries are on for a sale. The Government has to worry for our small scale industries and our own industries. The Government have to tell us whether we want to go the Singapore way or follow the Japanese model or the Korean model. We would like to know this from the hon. Minister. Whatever thought has been given to the problems of the small scale sector and other industries vis-a-vis the multinational companies, the hon. Minister owes an explanation about that to Parliament while replying to this debate.

SHRI S.S.R. RAJENDRA KUMAR (Chengalpattu):  
Mr. Deputy-Speaker, Sir, I rise to speak on behalf of my Party AIDMK, on the Trade Marks Bill, 1993.

Sir, while supporting the Bill which is now being discussed in this august House, I would like to place before the Government some of the views of my Party and suggestions for the consideration of the Government.

Sir, the Trade Marks Bill, which is under discussion, is considered to be a welcome step taken by the Government and it is widely welcomed by the genuine manufacturers in the country. It is a right step in protecting not only the genuine manufacturers but also the innocent consumers in the country. While the GATT attempts to protect the MNCs the present Trade Marks Bill, when enacted into law, would go a long way in protecting the genuine Indian manufacturers.

Sir, coming to the subject matter of the Bill, I would like to place before the Government the following points for consideration.

In the Statement of Objects and Reasons it is mentioned under (e):

"Providing for registration of trade marks to 'Collective Marks' owned by the associations etc.; if a proprietor manufactures different goods or provides services and obtains certification of trade marks in a 'Collective' form, then the responsibility lies on one individual firm for any kind of malpractice or sub-standard goods sold under the registered Trade Mark".

But in the case of medicines and food articles which are produced by different sister firms, though under one proprietorship, in that case 'Collective Marks' certification would lead to many complications involving serious consequences affecting the health of the consumers. Therefore, the Government should consider this point and include necessary clause in this regard.

Sir, my second point is that the Bill envisages establishment of an appellate board for speedy disposal of appeals and rectification of applications. I suggest that appellate boards should be established in those places where clusters of industries are located. I request the Government to establish State appellate board in Tamil Nadu, in Madras and Coimbatore, so that disputes arising out of bogus trade marks or copying of trade marks can be disposed of speedily.

The bill provides for transferring the final authority of terms of certification to Registrar instead of the Central Government in whom the authority is hitherto vested. In that case the Registrar will be the sole authority of giving certification. Vesting of power in one person may lead to many controversies and given room for misuse and abuse of that power. I would suggest that the Registrar of each region, or working in each State should invariably consult the State authorities before issuing certification to firms. In the case of issuing licence to vehicles and vehicle-owners in a State, the State Government has the sole authority. In the same way the State Government should be consulted before issuing certification of trade marks. This was time and again suggested by our hon. Chief Minister Dr. Puratchi Thalavi.

Sir, the Bill envisages prohibition of using someone else's trade marks. It is not clear whether the trade mark right can be passed on to any individual manufacturer other than the registered owner of the trade mark with the permission or sanction of the Registrar. Trade marks and names of many firms are used after adding words like "India Limited", as in "Phillips India Limited", by paying some royalty. It is not clear whether this kind of transfer or use of trade marks would be allowed.

Sir, under the garb of simplifying the procedure for registration and enlarging the scope of permitted use, the Government should take every precaution to see that unscrupulous manufacturers, and manufacturers of spurious items do not obtain certification of trade marks. The Registrars in various regions should be armed with necessary staff, laboratories and testing facilities so

that utmost care is taken before issuing certification of trade marks. The Government should consider the environmental pollution point of view also while issuing registration.

Sir, I hope the Government would consider the points suggested by me. Thank you, Sir, for the opportunity

[Translation]

SHRI KRIPAL SINGH YADAV (Patna): Mr. Deputy-Speaker, Sir, today we are discussing Trade Marks Bill, 1993 here in the House. This Bill was introduced in Lok Sabha on 19th of April, 1993. But the House had referred this Bill to a 'Standing Committee at that time. It had been done in order to get it reintroduced with a report after plugging all its loopholes. But after that discussion in 1993 we are again discussing it today in 1995. This Bill has been introduced for a discussion on it after a long gap. A similar kind of Bill had existed before this 1993 Bill which had paved the way for provision of laws as per our country's yardsticks. Such a Bill was passed in 1958 and the same Bill has been amended and introduced again in 1995. It has been extensively amended to suit the interests of the businessmen and industrialists. Though this Bill has been amended yet some very good points of the earlier Bill have not yet been incorporated. I would like to urge upon the hon Minister, through you, to incorporate those good points. Earlier this Bill read as 'Trade and Mercantile Marks Act, 1958' and goods used to be registered under this Act. The word 'goods' has been substituted with 'Services'. I would like to say that the word 'Services' is a vast term. They have made no effort to explain as to what kind of items would be included in it. It would have been better on your part to have explained at length as to what were to be included under 'Services'. I feel another amendment is called for.

Secondly, the Government should take another point also in reckoning which was mentioned yesterday by the hon. Member Shri Shahabuddin ji also. He said that the registration of a trade mark should not be done in the name of any particular person, caste or religion. Often we notice that some people get the registration of trade mark done in the name of deity or a pilgrimage. A stringent provision should be made that no registration is made in the name of any religion or a pilgrimage so as to avoid hurting the sensibilities of any particular religion. A law should be enacted to ensure that anybody who violates this rule and gets a trade mark registered in such a way would be punished.

Thirdly, it is commonly seen that people carry out their trades on large scale on the basis of a fake trade mark. The things are getting manufactured and sold at a large scale in the name of foreign trade marks. You must have seen that people commonly use Pond's and Lakme in our country. A strict action should be taken against such people indulging in such practice of making use of fake trade marks. They have not made any such provision in the Act. I feel that such a provision should be made in the act.

I would like you to specify one more thing. Under the 1958 act, if a registration was not made then a reason used to be furnished as to the non-granting of registration but no such provision has been made in this new Act. You should make a provision specifying the reasons for not granting registration in certain cases. Mr. Deputy Speaker, Sir, a provision has been made in this Act for awarding two years' imprisonment. It is a laudable inclusion. This would be considered a non-cognizable offence. I request you that the term of this punishment be increased from a period of two years to three years.

Mr. Deputy Speaker, Sir, several hon. Members have complained that since the day we have adopted liberalisation policy, the entry of multinational companies has been initiated and these companies come through the help of Indian trade marks and entrepreneurs. These multinationals first initiate work in joint venture with Indian companies and after establishing their business then they chuck the Indian industrialists out of the business, we have examples like, Pepsi, Maruti-Suzuki, etc. That is why, attention should be given to this aspect and it should be ensured that Indian industries and industrialists do not face any hardship. You must make some provision in the new Act in this regard also. If it is not done then Indian industrialists and businessmen would definitely suffer. It should be made sure that such restrictions should not be imposed on our industrialists so as to enable the multinationals to exploit our industrialists and businessmen.

I would like to submit to the hon. Minister, through you, that though you have introduced several good points in this Act yet the Parliament's Standing Committee has recommended in its report that this law should not be implemented before the implementation of the Patents law is pending with the Rajya Sabha. So, you should keep in mind that recommendation of the Standing Committee and should not implement this law until the Patents law is implemented. It would augur well for the Indian industries.

With these words, I respect the intentions of the hon. Minister with which this Bill has been introduced and urge upon him to plug the loopholes and get it passed after amending it suitably.

SHRI GIRDHARI LAL BHARGAVA (Jaipur): Mr. Deputy Speaker, Sir, I respect the intention of the hon. Minister with which he has introduced this Bill. I welcome this Bill because the existing act is 80 year old. In the meantime, several decisions were made by the Supreme Court and these would have called for several amendments in the act. It would have been tedious for everyone concerned. That is why, the hon. Minister has attempted to introduce this Bill in a consolidated form.

Sir, it has been attempted to simplify the law for the traders/businessmen. It will bring relief to people. A provision to set up an appellate court has been made in this to dispose of those cases which have been pending in courts for years. The right to cancel a

registration which was earlier with Central Government has now been conferred on a Registrar. This is laudable. But this law was very old. It was introduced in 1958 which was again brought in 1993 and then it was referred to Standing Committee and the Standing Committee came out with certain recommendations. I suggest to the hon. Minister to introduce the Bill and enact a law but the main thing is that it should not be implemented until the Patents Act is passed by the Rajya Sabha. It has been said here. You should have given proper attention to it but you did not.

Sir, as the former Speaker mentioned that the trade marks would not be named after a caste, deity religion. As we were discussing here I would say that trade marks should not be named after women also. And if it is a saree-store then a woman should not be allowed to display the saree by modelling for it as the men do not model for suiting-shirting. This is not right. Madam Krishna Sahi, if I want to name a trade mark after your name then it would not be proper because your name symbolises good and similarly it would also not be proper for me to name a Trade mark after Manmohan. So, it should not be done in the name of a caste or a religion. The name 'Manmohan' is also a good name. So far as my name is concerned my parents had named me after a lot of deliberations. Women mention my name a lot during the days of Kartik.

Sir, I am trying to say that you have not followed the report of the Standing Committee in this regard word for word. It was imperative to do so in the interest of the nation in the form that when multinationals start functioning here they will cause harm to Indian industries, not big but small industries. So, please do not be in a haste to pass the Bill.

Sir, several things have been mentioned in this. It is not essential to get its registration done. In certain cases trades produce imitating goods by marking a slight change in the spelling with wrapper of the same variety. Thus they deceive the consumer, e.g., we have sunlight soap. It is a very famous soap but some company changed it to 'somelight'. Similarly, the spellings of the 'lifebuoy soap' was slightly changed for a new product which is also a soap only. This way people get deceived. In some cases, contradictory advertisement is done. Like, it is printed on a cigarette box that it is not good for health and some instructions are also given on it that cigarette smoking is injurious to health. I want to say that the Government did not stop to think about these things.

Sir, I would like to say to the hon. Minister, through you, that the Department of Industries had made some remarks in this connection which were forwarded to the Ministry of Law, Justice and Company Affairs which endorsed those remarks. But those remarks have not been incorporated in the Bill for consideration. They should have considered all these points. You are right in saying that this act was 30 years old. You have included registration of services also through this but

what does the term 'services' mean? What does it mean? You are the hon. Minister... (Interruptions)

[English]

MR. DEPUTY SPEAKER: Shri Girdhari Lal Bhargava, how much time do you require?

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Mr. Deputy-Speaker, Sir, I have started speaking only now. So, I should be allowed some time to speak.

[English]

MR. DEPUTY SPEAKER: It is 3.30 p.m. Now we shall have to take up Private Members Business. So, you can continue your speech next day.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Mr. Deputy-Speaker, Sir, I do not want to interfere in the Private Members' Bill as it is presented on Friday only. I always listen to you. So, I conclude my speech with the hope that you will allow me to speak again on Monday.

15.31 hrs.

### THE COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

#### Forty-Second Report

[Translation]

DR. LAL BAHADUR RAWAL (Hathras): Sir, I beg to move :

"That This House do agree with the Forty Second Report of The Committee on Private Members Bills and Resolutions presented to the House on the 24th May, 1995".

[English]

MR. DEPUTY SPEAKER: The question is:

"That this House do agree with the Forty-Second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 24th May, 1995"

*The motion was adopted*

15.32 hrs.

### ANNOUNCEMENT RE: SUSPENSION OF PROVISO TO RULE 29

[English]

MR. DEPUTY SPEAKER : The hon. Members are aware that Private Members Business (Resolutions) could not be transacted on 28th April 1995 and the

House had agreed that the business listed for that day might be taken up on some other day. As already notified, Private Members' Business listed for 28th April 1995 will now be taken up on 30th May 1995. If the House agrees, the provision to rule 29 may be suspended so that further discussion on the part-discussed Resolution of Shri Satya Deo Singh regarding steps to prevent atrocities on Scheduled Castes and Scheduled Tribes is resumed at 30th May 1995 as the first time in the List of Business for the day.

15.33 hrs.

### RESOLUTION RE: REVIVAL OF SICK PUBLIC SECTOR UNDERTAKINGS

[English]

SHRI SUDARSAN RAYCHAUDHURI (Serampore): Sir, I beg to move:

"This House expresses its grave concern over the increasing number of sick public sector undertakings under the control of the Central Government and non-payment of dues of workers in those units and urges upon the Government to take steps for the revival of the units and for the payment of dues of their employees in the interest of the country"

Sir, today itself, in reply to a Starred Question regarding closure of certain companies by BIFR tabled by the hon. Members Shri V. Sreenivasa Prasad and Shri Indrajit Gupta, the hon. Minister replied that the Board for Industrial and Financial Reconstruction has reported that as on 30.4.1995, it had recommended winding up of 11 public sector undertakings with the concerned High Courts. Sir, all of us know that during the last four to five years, the Government has been pursuing an Economic Policy and Industrial Policy, which not to speak of satisfying the needs of the common people, the workers of the country but these policies have caused tremendous hardship to the lives of the entire working people and affected the fate of lakhs of employees working in the public sector undertaking under the Central Government. That fate has for all practical purposes been sealed.

I can refer to the situation in my State, West Bengal, where out of 54 Central Public Sector Undertakings, 20 had been referred to the BIFR and the revival package for five of these 20 have been cleared so far thankfully. But even of these five, three packages for Bharath Brakes and Valves, Braithwait and Smith Stanistreet are in jeopardy. Why these packages are in jeopardy is because of the fact that the Government is not complying provision of the schemes of the revival package and in case of other units like Bharath Ophthalmic, BPMEL, Cycle Corporation, MAMC, National Instruments and Weighbird show cause notices for winding up had been issued by the BIFR. What is unfortunate is that though