

MR. CHAIRMAN : There is no question of first hand or second hand information. This issue is over now.

[English]

MR. CHAIRMAN. There is a listed business in the House. We will now resume the listed business. Shri Sharad Dighe may please speak.

[Translation]

SHRI BHOGENDRA JHA : I am one of its victims. Let me allow to speak please... (Interruptions)

MR. CHAIRMAN : You are a senior member. You rise and start speaking whenever you wish to do so. Everything has been stated regarding this incident and the hon. Minister has also expressed his views. Therefore, please sit down.

(Interruptions)

SHRI BHOGENDRA JHA : I am starting from that very point... (Interruptions) Please listen to me.

[English]

MR. CHAIRMAN : I will not allow you. I have already called Mr. Sharad Dighe. You please take your seat.

(Interruptions)

MR. CHAIRMAN : Nothing will go on record.

[Interruptions]\*\*

[Translation]

SHRI RAJNATH SONKAR SHASTRI (Saidpur) : Please allow him to speak for two minutes.

MR. CHAIRMAN : All right. I allow you for two-minutes time.

SHRI BHOGENDRA JHA : 33 All India People's Organisations of the country comprising All India People's Organisations of labourers, agricultural labourers, students, women and youths were present at the Tal Katora Stadium on the last 15th April. They decided to launch 'jail bharo abhiyan' on the 19th August i.e., today as a mark of protest against the new industrial and economic policy of the Government as well as against communalism. The Government of India had been informed about it.

Sir, today we assembled at the Jantar Mantar and proceeded ahead. We had

openly given a call for court arrest. Nearly 25 thousand people were present there. If the police wished they could have arrested us at the very outset. They tried to stop them but we did not stop. Then they resorted to water canon and tear-gas from very close vicinity. It was virtually impossible to breathe and see even for a moment and thereafter there was lathi charge.

Had they arrested earlier, this development might not have taken place and such a large number of people including myself would not have been injured. Women also were injured in the lathi charge. We have requested the police to send them to hospital and they have replied that they are sending them. All this could have been averted if they had been arrested earlier. With these words I conclude.

\*\*Not recorded.

[English]

14.35 hrs.

STATUTORY RESOLUTION RE. DIS-  
APPROVAL OF THE CONSUMER  
PROTECTION (AMENDMENT ORDI-  
NANCE  
AND

CONSUMER PROTECTION (AMEND-  
MENT) BILL.—Contd.

SHRI SHARAD DIGHE (Bombay North Central) : Mr. Chairman, Sir, I was saying in the morning that I wholeheartedly welcome this Consumer Protection (Amendment) Bill, 1993 which has been brought before this House. When this original Consumer Protection Act was passed in December, 1986, we were very glad because it was a major step in the field of consumer protection movement. And some of us had even held this legislation as a Magna Carta, as far as the consumers are concerned. It was really a milestone in the history of socio-economic legislation of this country. Now, this legislation was in force since 1986 and certain loopholes and lacunae were found out and detected not only by those who were functioning under this Act but several institutions were also helping the consumers in order to protect their rights. And therefore, it was but natural that a working group was instituted to find out the exact defects, as far as this Act was

concerned, and to remedy those defects so that the consumers' rights can be effectively protected. A very detailed study was done by that working group since 1990; and I find that a very good and detailed report was also submitted by them. They had made ten major recommendations and a detailed note, as far as the amendments of the different clauses were concerned, was also annexed to that working group report. I am glad that most of the recommendations have been accepted by the Government. After accepting this liberally, the legislation is very much helping the consumers, as far as their rights are concerned. However, there are some suggestions which have not been accepted, but, still, I would like to dwell upon them also in my speech. The main irritants are there, as far as different definitions in the Act are concerned. And the major definitions which were very much relevant for the functioning of this Act were, namely, two. The first one was the definition of a complaint. In this Bill, a major irritant has been removed by adding one more clause in that definition that is one or more consumers, where there are numerous consumers, having the same interest, can make a complaint. But there were two more suggestions by this working group which have not been included in this Bill. I do not know why they have not been included. The first was that many of these redressal machineries, namely, district forums the State commissions and national consumer dispute redressal commissions have pointed out one lacuna that in many cases when the recognised bodies of these consumers file the complaints, they are not accepted because the affected consumer is not a party to that complaint or ceases to be a party, as far as that complaint is concerned. Therefore, there was a suggestion by this working group that a clarification should be made that whenever a complaint is filed by a recognised consumer, then, even though that aggrieved consumer is not a party to the complaint or for any reasons if he ceases to be a party to that complaint, even then that complaint should be entertained; but that has not been included in this; and I feel that when further occasion comes, the Government would do so. Another suggestion was that sometimes even the re-

dressal machinery, namely, these forums feel also *suo motu* to take up certain complaints and to take note of those complaints and entertain them. But they are unable to do so because there is no provision in this Act by which they are authorised to do so. Therefore, one suggestion was that these redressal grievances machinery *suo-motu* should be able to take up certain complaints when these things are brought to their notice.

As far as the definition of consumer is concerned, two more irritants have been satisfactorily removed by the Government by this Bill. Firstly it has been now made clear that even though the goods are not actually bought, if there is an agreement to buy those goods, complaint can be made by the consumer.

Secondly, as far as the hiring was concerned, the suggestions was 'hires or avails' of the service should have been added and that has been added by this Bill. It is a very Welcome step.

Now one more irritant that was there, which has been always discussed in the press also viz. that public hospitals are not covered by this Act because the wording used in the definition is, 'there should be some service for consideration and then the free Government hospitals or the free hospitals run by the local bodies are there even though there are several complaints by the consumers viz., patients.' They are unable to take advantage of this because of this condition that there is no consideration for that service, that is available in this. Therefore, this Working Group had suggested that this pre-condition of consideration should not be there as far as this definition is concerned. That does not appear to have been accepted in this and therefore, hereafter also the public hospitals run by the Government and the local bodies would remain to be exempted as far as this Consumer Protection Act is concerned. My submission and my request to the Government would be that this may also be considered if there is another opportunity to amend this Bill.

Now, Sir, there has been a lot of discussion in courts as well as in the press whether doctors and lawyers are covered by this. My submission is, that should have

been clarified in this Bill. But somehow or the other, that point has also been left out and not clarified. We have to depend only upon the judicial decisions as far as this is concerned. My submission is, it would have been better if clarification had been added as far as this is concerned. That was also one of the suggestions of the Working Group.

Now as far as service is concerned, housing activity has been brought in as per the suggestion of the Working Group. That is a very welcome suggestion. But as I said that this would have been also better if at this stage Government hospitals would have been included and further protection would have been available to the consumers.

There is only one doubt in my mind, when we have added the word 'housing construction' in these services which are to be covered by the Consumer Protection Act. It may not happen that disputes between landlords and tenants may come by some stretch of the interpretation of this and therefore, some care should have been taken. But I hope that ultimately, the courts will come to the rescue and would not enlarge the scope of this phraseology of housing construction to include the disputes between landlords and tenants also.

Now, further on, there are several other things which have also to be accepted. But I would first deal with a new clause that has been added, as far as limitation is concerned.

Clause 19 adds one more section, namely, Section 24(a) and that Section 24(a) lays down a limitation period for filing a complaint. Originally one year was stated in the Ordinance. I find that one year has been substituted by two years. In the original Act there was no provision for limitation at all. But judicial interpretations have laid down that three years should be a normal and reasonable period for entertaining these complaints. That was a reasonable period according to me. I do not know why the Government has taken into consideration this aspect at all. There was no suggestion from anybody. This Working Group had not suggested regarding laying down limitation for entertaining the complaint. Nor

did the members; nobody had suggested this. No organisation had suggested. I do not know why the Government itself has taken into its head to lay down these conditions as far as the limitation is concerned.

My submission would be that in this beneficial legislation limitation ought not to have been put and the reasonable interpretation which the courts had put on these subjects was quite sufficient. Three years would have been good. Therefore, I have also given, by way of an amendment, to substitute three years for two years which have been already put here and that would be a good thing according to me.

There are six rights of consumers which are enshrined in Section 6 of the Act and the suggestion of the Working Group was that some more rights should have been added. Not only that. A direction should be given to the redressal grievances machinery that these rights should be considered while addressing to the grievances of the consumers.

This is what the Working Group had said in the report, at page 8: "The six rights of the consumers are enshrined in Section 6 of the Act. These rights can also be called as the fundamental rights of the consumers. It will be befitting to have a separate chapter on rights of consumers where these six rights are mentioned. It should also be provided that Councils and three-tier redressal agencies envisaged in the Act while protecting and addressing themselves to the affairs of the consumers, shall attempt to ensure that these rights are fully protected."

Therefore, I would very much like the Government to accept this suggestion and provide in this way. This Working Group had also added some of the rights which are mentioned in Section 6 and my submission will be that those rights also, these fundamental rights which are mentioned in section 6, also may be added so that it will be a full statement of the fundamental rights of the consumers.

Now, some more teeth are also given to the redressal of grievances machinery.

But all those suggestions which were made by the Working Group have not been, of course, included in that. The Working Group, at page 15 and 16 has mentioned some more powers which should have been given to these machineries viz. the District Forum, State Commission and National Consumers Dispute Redressal Commission. Some of them were these. They have no powers at present to grant interim reliefs. So some provision ought to be made so that interim relief can be given by them. Then they should have powers to remove the defects and deficiencies in the services in question. That is partly accepted and some provision has been made.

Now there should be also power given to these redressal grievance machineries to direct to issue corrective advertisements if an advertisement is held misleading. That provision ought to be made.

Then there should also be provision to review their own decisions and to issue interim injunctions. All these suggestions also were made by the Working Group and I would have very much liked the Government to take into consideration those suggestions also.

Anyway, the Government's step to accept most of the suggestions of the Working Group is a very welcome step taken by the Government. I congratulate the concerned Minister and also the Government for having accepted liberally these suggestions which are made by a very representative group as far as the consumers' movement is concerned.

I urge upon the Government to take further opportunity to amend and to incorporate the other suggestions which are there. I would very much earnestly urge upon the Government to increase the limitation to three years rather than two years that is provided. That is a unanimous demand of all the consumer associations and all those who want to protect the consumer's rights.

SHRI RAM KAPSE (Thane) : Hon. Chairman Sir, I would have welcomed the amendments and the ordinance also provided all the suggestions of the Working Group were accepted *in toto*. The

Government is telling us that they have accepted 80 per cent of the suggestions. But in reality all the major suggestions have not been accepted and whatever suggestions have been accepted, they will, ultimately, just help the cause of the consumer and for that only we would say that a step forward has been taken. But if after the experience of seven years you have come with an amendment and all the exercise of Working Group has been done for the last two-three years, we would have expected the Government to accept all the suggestions of the Working Group because Working Group had taken into account the decisions of the court, the decision of the forum, discussion in the Parliament. So all that elaborate endeavour, ultimately, you have not accepted. What you have not accepted is about the municipal bodies, about the local bodies, about the Government. Still wherever you go, as far as the courts are concerned, the decisions are not favouring the consumers as such.

Even if there is a decision given by a district forum some times, it is reversed at the State body or at the national body. Even the about Railways, the Telephones, the Posts, if the district forum has given some favourable decision, it has been removed. The Railways have not accepted it. The Posts have not accepted it. So, in a way, the Government feels that we are not to be charged for anything if it goes against the consumers. But they are to be charged.

About an individual, yes, between one individual and another individual the Government has taken the side of the consumer. But as far as Government agencies are concerned, the local bodies are concerned, the Government says that sometimes it would do it. It may take some time. If you feel that the consumer should be benefited, then he should be benefited *in toto*. Even if you accept that public enterprises and the Government bodies have no immunity, in that case, there is a possibility that private enterprises also will behave differently. Because, today there is a feeling that Government agencies are above board and that has created a Problem.

I will request again and again to see to it that the Telephones, the local bodies and the Railways are brought under the purview of the Consumer Act; because the consumer forums will be popular one day. Today they are not that popular. Because some of the people do not know the basics of the consumer movement. Really speaking, this is the easiest legislation which the Government has given. There is no need for a lawyer and there are minimum formalities with a deadline of three months. So, if the consumer gets the benefits of this Act, he will be benefited like anything. But today we say all good words about the consumer. But do we really help him, and if so to what extent? Has enough publicity been given to the Act? Do the people in the rural areas know about their rights? This is mostly an urban Movement. Even among the States, is it call between the South and the North? In the South the movement is popular. In the North it is not that popular. Some States have just started working as far as the district forums are concerned.

The Supreme Court has directed the Government that by the 1st January, 1994, it has to see to it that all the district forums, the State forums, should start functioning in a proper order. Even the members whom the Government has appointed, is it satisfied throughout? Are the Government satisfied firstly that the States have appointed the right persons for a right cause? It is not the experience of the people. Many a time the Government could not get Judges in the district forums also and at many places full Judges are not available. It is a part-time job done in some courts. As a stretch, the Government has given an amendment and they would like to have even two district courts in one district.

15.00 Hrs.

But, at the same time, there are some district courts where you are not getting a full-time Chairman. So, in the given circumstances, I would request you to see to the execution of the Act, see that it becomes more popular, see that it really reaches the people and see to it that the public enterprises and the government departments are brought into the purview

of this forum. Then only the real purpose will be achieved and for that we should work together. That is my first suggestion.

[Translation]

MR. CHAIRMAN: Shri Kapseji, would you like to participate in the debate later or you would like to conclude just now? It is upto you.

SHRI RAM KAPSE: If you allow me, I would like to conclude it within five minutes.

MR. CHAIRMAN: All right. Please conclude it in five minutes.

[English]

SHRI RAM KAPSE: There is one amendment about the class action complaints. Till today, only the consumer could go in for complaint and if it was a class complaint, it was not acceptable. But, at the same time, the Working Group; had suggested that organisation should be allowed to go in for consumers' redressal. We know that there are reasons for the consumer not going to the court. Sometimes he is afraid. He does not know about it. But if the organisation is allowed to go in for that, what prevailed upon you not to accept this suggestion of the Working Group? You have accepted the class complaint, I wanted to ask you about the organisation, whether an organisation can *suo motu* complaint.

My second suggestion is about the services. I have given an amendment that after 'housing construction', insert 'real estate', because as far as the housing is concerned, housing construction is one problem and the problem created by the real estate agencies is another problem. So, my suggestion is about the acceptance of the amendment suggested by me on page 3, line 16.

About the DDA, we were having the experience. There will be complaints against Housing Boards, DDA, etc. about land, about price, etc. If they are taken into account by the consumer courts, that will be a nice addition here.

The Third amendment which you have accepted is about the goods brought by

self-employed people for earning their livelihood. That is a good amendment and we support it.

About the safety of public, you have brought in a new amendment and we welcome it.

About more district forums, even the Supreme Court had suggestion that for Delhi, there should be a separate court and it was a necessity.

About the monetary jurisdiction of district fora, State Commissions and the National Commission, we welcome your suggestion.

Then, about the Selection Committee, again I have given an amendment. As far as the selection is concerned, now it will not be only a Government endeavour; there will be Selection Committees. But, at the same time, for the appointment of members of the District Committees, State Committees or the National Commission, the President of the National Commission is fully ignored. I feel that the President of the National Commission should be included when you are taking help of all others.

Avoiding the help of the President of the National Commission, I think, will not be in the fitness of things. So, this is one important amendment which I have suggested.

About the limitation period, there is no reason whatsoever for accepting the limitation of two years in place of three years. It should be three years because it is a general practice. It was demanded by the working group, by everyone and I feel that you should accept this amendment also about three years because even the guarantee period, sometimes, is for one year.

Many a time people feel that we should go in for consumer protection; but at the same time your time limitation comes in their way. So, please accept the suggestion of limitation of three years.

Then there are some recommendations of the Council which you should take into account. One is about the separate legislation on the pattern of Freedom of Information Act, 1966 in the U.S.A. That

is not a suggestion of the working group but the Council. The Council had suggested it and the hon. Minister, Shri Antony, had almost welcomed that suggestion. But when we went through the amendments, we do not find that. I would again suggest to you that a legislation on the pattern of Freedom of Information Act should be there for the consumers. That will go a long way to help the consumers. That is one suggestion of the Council.

Then another suggestion is about the Public Utility Regulatory Commission Act. If public utility service is made responsible, private organisations' attitude will also change and further Railways, Posts, Telephones, LIC etc. all these should be brought into its purview. This Act will also help the consumer movement.

As on today the consumer movement needs the help of the Government, of the social organisations and at the same time it should be publicised. For that the Government should come forward and accept all these suggestions in the interest of the consumers.

Thank you very much.

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MOTION RE : REVIEW OF DRUG  
POLICY

[English]

15.08 hrs.

MR. CHAIRMAN : Now we take up discussion on drug policy.

[Translation]

SHRI MOHAN SINGH (Deoria) : Mr. Chairman, Sir, when this discussion will be taken up again ?

MR. CHAIRMAN : It will be discussed next day. Now the drug policy will be discussed. Four hours have been allotted for this.

[English]

THE MINISTER OF STATE IN THE  
MINISTRY OF CHEMICALS AND  
FERTILIZERS (SHRI EDUARDO  
FALEIRO) : Sir, I beg to move :

"That this House do consider the Back-  
ground Note on Review of Drug Policy,