

17.01 hrs.

[Shri Sharad Dighe in 'the Chair]

STATUTORY RESOLUTION REGARD-
ING DISAPPROVAL OF DEBTS DUE TO
BANKS AND FINANCIAL INSTITU-
TIONS ORDINANCE
RECOVERY OF DEBTS DUE TO
BANKS AND FINANCIAL INSTITU-
TION BILL—Contd.

[Translation]

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE AND MINIS-
TER OF STATE IN THE MINISTRY OF
PARLIAMENTARY AFFAIRS (DR.
ABRAR AHMED) : Sir, I am grateful to
all the hon. Members who have partici-
pated in the debates on the recovery of
Debts due to Banks and Financial Institu-
tions Bill, 1993. The hon. Members have
given many suggestions and have asked a
number of questions. There was a need
to take action in this regard and to con-
stitute a tribunal for it much earlier. Even
the hon. Members themselves have admitted
that the committee headed by Shri
Narsimhan and the committee headed by
Shri Tiwari have strongly recommended to
set up such a tribunal, and these committees
also felt that the recovery of loans
advanced by Banks and other Financial
institutions is not being done properly, and
there is a lot of delay in the recovery of
loans and a lot of outstanding amount be-
comes bad debt, so some arrangements
should be made to ensure the recovery of
Bank loans in a proper way. Sir, for a long
time a need was being felt to set up such
a Tribunal as may help the smooth recovery
of outstanding loans of Banks and Finan-
cial Institutions from the customers parti-
cularly from big industrialists in a mini-
mum possible time. To meet this particular
end, this Bill has been brought. Several
hon. Members have inquired in this regard.
There were 15,33,387 cases till March,
1990-91 and an amount of Rs. 5622 crores
of Banks loans was involved in these cases.
In this Tribunal which has been set up to
recover this huge amount, only these cases
which involved more than Rs. 10 lakhs are
being taken up for recovery.

Sir, through you, I would like to inform
the hon. Members that there are only 6570

cases out of 15,33,387 cases where out-
standing amount of Rs. 10 lakhs or more
is involved. This is only 0.4% of all
the total cases i.e. less than 1/2%. But
if we see the outstanding amount of
Rs. 5622 crore, an amount of Rs. 3147
crore is involved in these cases where an
amount of Rs. 10 lakhs or more is involved.
It means 56% of the total outstanding
amount of loans is due against less than
half percent borrowers. So through this
Tribunal and through this Bill the out-
standing amount can be recovered very easily
because very few borrowers have big
amount outstanding against them. Simi-
lar is the case of the Financial Insti-
tutions. There are 204 cases pertaining to
the financial institutions. In these cases
Rs. 390 crores are outstanding and there
are only 32 cases which involve less than
Rs. 10 lakhs and the total amount involv-
ed in these cases to Rs. 1.55 crore. A
sum of Rs. 389.43 crore is involved in
the remaining 172 cases. It means that
very few people have to repay the maxi-
mum amount to Financial Institutions
and Banks. So there is an impression
that there is a continuous fall in the re-
covery of the loans by the Banks and
Financial Institutions.

Many a time it has been seen that the
borrowers somehow try to bring the
matter under litigation. In this way the
matter will go to one court after the other
and it will take a long time for its deci-
sion and the money will remain pending
the decision of the courts. Thus the
money cannot be used by Banks and
Financial Institutions. That is why this
Bill has been brought to make the re-
covery of the loan-amount smoothly.

Some common points have been raised
by the hon. Members during the discus-
sion particularly Shri Charles has made
an objection to the provision regarding
75 percent of the amount with the Appel-
late Authority. The intention behind
this bill is that there should be no delay
in the recovery. Once the tribunal
awarded its judgement and if anybody
wants to make an appeal against the said
judgement, he has to deposit 75% of the

amount. But there is a provision too in this Bill through which the Appellate authority has been empowered to reduce this amount or can give total exemption from depositing the amounts. All these provisions are there to make recovery in time.

Similarly the hon. Members have made an objection against the provision 25 B under which any person can be arrested. (*Interruptions*)

If Recovery officer has no right to arrest the concerned person after the judgement, he will be unable to make recovery. That is why the provision has been made in the Bill. If there is no recovery even after the judgement of the Tribunal, the defaulter can be arrested. Such provisions are already existing in income tax and custom Act etc. (*Interruptions*)

Some hon. Members have raised the issue of natural justice that the provisions of this Bill will violate the principle of natural justice. I would like to tell the hon. Members that everyone has a right to follow the civil procedure of tribunal, tribunal will hear all the parties and will give judgement afterward. Therefore, there is no chance that natural justice will not be done. If any hon. Member has any doubt, I can clear that too.

Hon. Member Chetan Chauhan was speaking. It seems that he has a sound knowledge about Banking. He has raised some very important points. In his speech he had raised the point about wilful defaulters. It is right that due to wilful defaulters we need such type of tribunals. If a person who borrows money from the Banks etc. does not repay the loan intentionally even though he has the capacity to repay, these problems crop up. There is now growing tendency among the borrowers not to repay the loans taken from Banks and financial institutions. Such tribunals are needed to ensure the timely recovery of loans. As the hon. Member has said that the people take loan and thereafter intentionally declare the unit sick. I too admit

this. Practically after the sickness, the goodwill and the property of that unit increase. We have to find out the relation between these too. The loan amount can be recovered through the tribunal from those borrowers who do not repay the loan on the plea of sickness of unit. If the unit is really sick, it will get the financial help.

An hon. Member had made a point in the context of appraisal. I admit it. A number of units become sick and money is not recovered from them because proper appraisal of several units is not done at times. Banks and financial institutions give loans to set up units and they also make recovery of these loans. If the money is not refunded, the matter goes under litigation, or it is recovered through tribunal. When any unit becomes sick the target of our economy receives set back. The target of economy is related to Industries of import export, consumption of raw material or employment, so the target of economy is disturbed following the lack of appraisal due to sickness of units. That is why the appraisal must be conducted strictly. I believe that the ill effects on the economy following the sickness of industries can be prevented. We are considering seriously as to how appraisal should be made properly and how to fix the individual accountability.

If appraisal is correct the results will also be correct. Besides all that, one point has also been made that the benefit provided to sick industries increases sickness. There are two reasons for giving benefits to them. Sick industry is not only related to the owners, but it is also related to the people because thousands of workers work in that. It is the main objective of the Government to take care of the workers' livelihood; so the Government tries its best to reopen the sick units. The Government tries to help the sick units with the assistance of BIFR, AIFR or Banks or financial Institutions. Besides, no one can deny its second aspect. Some people intentionally make the units sick,

therefore, provision has been made to recover the loan through the tribunal. An hon. Member has asked about the rate of interest to be charged and the procedure to be followed when the matter goes to tribunal.

I would like to tell you that the rate of interest on the loan will be charged at the rate given in the agreement unless the matter goes to tribunal. Once it goes to tribunal, the rate of interest will be charged at the same rate as fixed by the tribunal. Shri Panigrahi and some hon. Members have asked about the number of benches. There is a provision in the Bill that the number of benches or tribunal can be increased in due course. But at present there will be only four benches which will be set up at Delhi, Bombay, Calcutta and Madras. An Appellate tribunal will be constituted at Bombay. The number of these tribunals can be increased according to the need. It has been asked about the status of Recovery Officer. In this context I can tell you that he will be appointed, amongst the senior officers of Banks and he will enjoy all the powers for which I have mentioned.

Hon. Member Anna Joshiji has left. He has mentioned so many things and asked some questions. He has made a point regarding bad debt which is increasing constantly. Efforts are being made to recover that amount. The main target to get this tribunal is to reduce bad debts and doubtful debts and to recover the outstanding amount within a time frame. He has made a point about Harshad Mehta and Bank scam. He has said that when the scam had already taken place, what is the use of all such things and what is the need of recovering the amount of Rs. 6 thousand crores involved in the scam. I cannot expect such type of reaction at least from my learned friend Anna Joshi. If any Bank Scam etc. has taken place and a certain amount is involved therein, should we stop the recovery of that amount or should we allow the Banks to provide more and more finance to the unit and let the whole economy of the country destroy

and should not take any remedial measures? This is not correct. Bank Scam has taken place. Joint Parliamentary Committee represented by all the political parties is looking into it. Whatever action will be taken, it will positively be taken in the Committee. Shri Annaji Joshi has asked four points and wanted their reply from me. Now he is not here, he has left the House. Firstly, he has asked about Tiwari Committee which was set up in 1980. Why did not you bring such type of Legislation earlier. This Committee was set up in 1980; it gave its report in 1984 and the Government was pondering over it. In the meanwhile, the Congress Government was changed, other Government came into power but it did not take it seriously. After that when we came into power again we have taken it seriously and we brought an ordinance for the purpose. We are trying to set up tribunal as early as possible through passing this Bill.

SHRI BHAGWAN SHANKAR RAWAT (Agra) : It was your Government in 1984.

DR. ABRAR AHMED : If hon. Members were very much concerned about it, then the other Government might have taken action on this. They had also got a chance to implement the recommendations of the Report. But I don't want to go into the details regarding this.

Secondly, Shri Anna Joshi has mentioned about the Budget provision made for Capital adequacy and to maintain the liquidity ratio. It was not meant for making good the deficit suffered due to Bank Scam. If there is some such misconception in the minds of any hon. Members, it should be removed.

Shri Anna Joshiji has mentioned one more point about the provision of 75 percent. As I have already said that the Appellate Tribunal is empowered to reduce this 75% or to exempt the whole amount. He had said as to why this power had been entrusted to them only and why the others should not get this

exemptoin. I am of the opinion that it is the discretionary power of the Tribunal and to whom the Tribunal considers as genuine, it can be given exemption because it is not a fresh case it is an appeal which is going to Appellate Tribunal after the decision of the Tribunal. If it will be given to everyone then there will be no use of appeal and Appellate Tribunal. Apart from this, Shri Sharadji had asked some questions regarding the procedure adopted in this matter. In this regard I would like to inform that the procedure of civil court will automatically be applied to the procedure of Tribunal. Every party has a right to say, to listen and to takes its decision, so far as 75% recovery is concerned, I have already told about this.

Shri Syed has stated that there is an increase in the outstanding amount. I really admit it. We are taking it seriously because the tendency of taking loan from Banks and financial institutions and to slip away is increasing. Therefore, we are setting up Tribunal and trying to recover the loan. This is a serious step in this regard.

In-section 19, the word 'may' has been used. If any bank wants to approach the tribunal it can do so. The reason behind it is that when any Bank feels that the loan amount which is more than Rs. 10 lakh is either not being recovered or the borrower has become a defaulter, it can go to the tribunal. It may also be possible that several borrowers who have taken loan of more than Rs. 10 lakh, would themselves refund the loan amount. Several Banks may recover their dues through negotiation with the borrowers. But in case the Bank finds no alternative to recover the amount and the loan amount in the Tribunal involved is more than Rs. 10 lakh or the intention of the borrower is not to repay the amount despite having the money, it is the discretion of the Bank whether it moves to the Tribunal or not.

Sir, I welcome the suggestions put forth by all the hon. Members and I have tried to reply all the queries as much as possi-

ble raised by the hon. members and I hope that all the hon. Members would be satisfied with my reply.

SHRI SYED SHAHABUDDIN : I had seriously asked you to present a complete picture about recoveries every year before the Parliament.

DR. ABRAR AHMED : I cannot give an assurance in this regard but when Tribunals are set up and start functioning then only I will be able to tell you the number of cases received, number of cases decided out of them and the number of the rest of the cases within the time limit of 180 days.

DR. G. L. KANAUIA : I would like to ask as to what was the difficulty in publishing the defaulter's name. If their names are published then we will come to know that how many defaulters have to pay their due and the amounts thereof. So far as the matter of Tribunal is concerned, there is no difficulty as you have a list of those persons. If the Government has a clear intention then what is the hitch in making the names of defaulters public.

DR. ABRAR AHMED : As you have said that the disclosing of the names of defaulters is meant to recover money from them, but so far as the question of publishing their names is concerned, the Banks and financial Institutions have their own rules and provisions in this regard.

DR. G. L. KANAUIA : The names of these people will be published only after allowing three months time to them.

DR. ABRAR AHMED : Such issues are dealt with as per the provisions laid down in the rules made in this regard. That is why I do not want to give any assurance in this regard.

PROF. RASA SINGH RAWAT (Ajmer) : Mr. Chairman, Sir, just now the hon. Minister has said a lot about this Bill, it may be a good Bill but such a weak Government which is unable to take right decisions and lacks moral force to take action against the economic offenders cannot do anything even if it has a powerful law to do so.

Mr. Chairman, Sir, I would like to stress one more point that this Government has developed a tendency to take action only. According to the reply given by the Minister the Tiwari Committee was set up in 1981 and it submitted its report in 1984. You ruled for the next five years and in the meantime after the gap of 13 months the Government supported by you was in power and thereafter you have been in power for the last two years. During these 8 years, you could not implement the recommendations of Tiwari Committee regarding recovering the Bank Loans and dues of financial Institutions, which clearly tells about your working. I feel that only this tendency of yours had led to the banks scam, involving an amount of Rs. 17 thousand crores. How this amount is going to be recovered? The previous defaulters are also there and as you have told that there are more than 1,50,000 such defaulters and the financial Institutions have such 304 cases, involving a sum of Rs. 5622 crores & Rs. 391 crores respectively. Let the JPC report come, it may establish the involvement of at least 7 Ministers. Who is responsible for putting pressure on Banks to sanction loans and taking of commission by the bank officials? The Minister did not throw any light on the responsibility of misappropriation of funds, arbitrarily sanctioning of loans which are not recoverable. Today the Banks are losing their credibility. What effective wages and means can be adopted to restore the credibility of Banks among the people? The big guns, who are responsible for the Rs. 17,000 crores Bank scam used to say previously that we are making progress and the prices of shares are increasing, which is a result of our new economic policy and what not. Today, by and by new facts are coming up before IPC about them. Tulsidas ji writes that :

"Jas Jas Sursa Badan Barhawa,

Tas Doon Kapi Roop Dikhava."

It means that when Hanuman ji visited Lanka then Sursa opened her mouth to swallow him but Hanumanji went on ex-

panding his body. The enquiry is disclosing more and more about our economic policy and more about the banks scam which makes them dumbfounded.

Mr. Chairman, Sir, I will conclude in a minute time. I want to know that what effective steps are being taken to remove the question mark over the credibility of banks. What disciplinary action are you going to initiate against the guilty officials of the Public Sector Banks? Which officers are responsible for taking commission and sanctioning loans to wrong persons? During Mr. Pujari's period loan melas were organised and as you have said that crores of rupees are due on some persons. On the other hand, in order to recover loans from the farmers their properties, even their pet animals which provide them their livelihood are mortgaged and no action is being taken against the big institutions and industries for the recovery of loans. You do not take any action against the big defaulters. Therefore, you must gather courage to take action against big defaulters. Who is responsible for a fall in the performance of the banks after their nationalization? With the prevalence of this suitcase politics, will we be able to recover these loans fully? How much of the loans have been recovered by the Banks so far during last three years? It will be better if you could provide data in this regard and also give information about the Appellate Tribunals to be set up in near future, then only we may feel that they are going to be effective. I also want to know the amount of loans recovered and cases settled during last three years by your officials. I want to say that the Government could not do anything in this regard and now it has come up with this ordinance and thereafter this Bill is brought to the House and discussed. Therefore, I will request the House to put a check on Government's tendency to bring ordinances. This ordinance do not have any clear directions to put a check on such scams and no action is being taken against the bank officials. Therefore, I request that this ordinance should be disapproved.

[English]

MR. CHAIRMAN : I shall now put the Statutory Resolution moved by Prof. Rasa Singh Rawat to the vote of the House. The question is :

"That this House disapproves of the Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993 (Ordinance No. 25 of 1993) promulgated by the President on the 24th June, 1933."

The motion was negatived.

MR. CHAIRMAN : The question is :

"That the Bill to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions and for matters connected therewith or incidental thereto, 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 18 stand part of the Bill."

The motion was adopted.

Clauses 2 to 18 were added to the Bill.

Clause 19—Application to the Tribunal.

SHRI BHAGWAN SHANKAR RAWAT (Agra) : I beg to move :

[English]

"Page 5, line 4—

for 'an' substitute 'sufficient' " (4)

[Translation]

Mr. Chairman, Sir, so far we have providing loans to the people by organising loan melas which gave a feeling to the people that they were getting something free and now through this Bill we are bringing such stringent provision which will break the backbone of the society. A

point regarding depositing 75 per cent of the amount has been mentioned in it, this amount should be made as 50 per cent in the Appellate tribunal. I am saying so because the C. P. C. and the procedure which we are going to adopt and 'CONTIM' act and precedents of court also support the point that only 50 per cent of the amount is deposited. Therefore, I think that instead of leaving it to the whims of the appellate tribunal we should adopt a rational attitude and make it as 50 per cent.

Secondly, I want to point out that he has put an amendment here.

[English]

"share of Joint holders in such amount shall be presumed, until the contrary is provided, to be equal."

[Translation]

Instead of "provided", "proved" word should be used for giving equal share to every share holder, then only legislature can fulfil its purpose.

Thirdly, that I have given an amendment in Chapter 4 is like this :—

"after giving the applicant and the defendant an opportunity of being heard, pass such orders on the application as it thinks fit to meet the ends of justice."

[Translation]

In the above sentence 'an' word should be substituted by "sufficient" because "an" means one. Suppose applicant or his lawyer falls sick and he cannot come to the court on the particular date then it will not be a reasonable opportunity. Therefore, sufficient opportunity is essential. It is in the constitution that unless giving sufficient opportunity prosecution and a decree can not be done against anybody. "An opportunity" word is against the spirit of the Constitution. Hence it should be substituted by the word "sufficient". I have given three amendments and I request you to accept all of them so that injustice is not meted out to the poor and the society does not face disharmony and an increased amount of

atrocities. Till date we have been giving high hope to accomplish the poor but now we are bringing a change in this philosophy so as the society may adopt it. Therefore it is very essential to accept these amendments.

DR. ABRAR AHMED : The first two amendments in which the Member has asked to use the word "sufficient" and reduce the amount of 75 per cent, I want to tell you that the word "opportunity" is already there which shows that they are being provided and opportunity and I have already told you in details about the second amendment about 75 per cent. Therefore, we do not accept them but we will accept the third amendment as it is about a typographical error.

[English]

MR. CHAIRMAN : I will now put amendment no. 4 to Clause 19 moved by Shri Bhagwan Shankar Rawat to the vote of the House.

Amendment No. 4 was put and negatived.

MR. CHAIRMAN : The question is :

"That Clause 19 stand part of the Bill".

The motion was adopted.

Clause 19 was added to the Bill.

MR. CHAIRMAN : The question is :

"That clause 20 stand part of the Bill"

The motion was adopted.

Clause 20 was added to the Bill.

Clause 21—Deposit of amount of debt due, or filing appeal.

SHRI BHAGWAN SHANKAR RAWAT (Agra) : I beg to move :

Page 5, line 45 and 46,—

for "seventy-five" substitute "fifty" (5)

MR. CHAIRMAN : I will now put amendment no. 5 to Clause 21 moved by Shri Bhagwan Shankar Rawat to the vote of the House.

Amendment No 5 was put and negatived.

SHRI RAM NAIK (Bombay North) : Sir, I am on a point of order. The hon. Minister is from Rajya Sabha and he is also saying "no". He has no authority to say, "no".

MR. CHAIRMAN : The question is :

"That Clause 21 stand part of the Bill".

The motion was adopted.

Clause 21 was added to the Bill.

MR. CHAIRMAN : The question is :
"That clauses 22 to 27 stand part of the Bill"

Clauses 22 to 27 were added to the Bill.

Clause 28—other modes of recovery

SHRI BHAGWAN SHANKAR RAWAT (Agra) : I beg to move :

Page 7, line 49,—

for "provided" substitute "proved" (6)

MR. CHAIRMAN : This amendment was accepted by the Minister. I will now put the amendment no. 6 to Clause 28 moved by Shri Bhagwan Shankar Rawat to the vote of the House. The question is :

"Page 7, line 49,—

for "provided" substitute "proved" (6)

The motion was adopted.

MR. CHAIRMAN : The question is :

"That Clause 28, as amended, stand part of the Bill".

The motion was adopted.

Clause 28, amended, was added to the Bill.

MR. CHAIRMAN : The question is :

"That clauses 29 to 35 stand part of the Bill".

The motion was adopted.

Clauses 29 to 35 were added to the Bill.

Clause 36—Power to make rules.

MR. CHAIRMAN : There is Amendment No. 2 to be moved by the hon. Minister, Dr. Abrar Ahmed under Clause 36.

Amendment made :

Page 10, line 5,—

after "Appellate Tribunal" insert—
"under section 7, 12 and 13" (2)

Dr. Abrar Ahmed :

MR. CHAIRMAN : The question is :

"That Clause 36, as amended, stand part of the Bill."

The motion was adopted.

Clause 36, as amended, was added to the Bill.

New Clause 37

MR. CHAIRMAN : There is a Government amendment under new Clause 37.

Amendment made :

Page 10,—

after line 24, add—"37".

(1) The Recovery of Debts Dues to Banks and Financial Institutions Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act." (3)

(Dr. Abrar Ahmed)

MR. CHAIRMAN : The question is :

"That New Clause 37, stand part of the Bill."

The motion was adopted.

New Clause 37, was added to the Bill.

Clause 1—Short title, extent, Commencement and application.

MR. CHAIRMAN : There is an amendment under Clause 1 to be moved by the hon. Minister, Shri Abrar Ahmed.

Amendment made :

Page 1,—

Amendment made :

for lines 8 to 12, substitute—

"(3) It shall be deemed to have come into force on the 24th day of June, 1993." (1) (Dr. Abrar Ahmed)

MR. CHAIRMAN : The question is :

"That Clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

MR. CHAIRMAN : The question is :

"That Enacting Formula and the long Title stand part of the Bill".

The motion was adopted.

The Enacting Formula and the long Title added to the Bill.

DR. ABRAR AHMED : I beg to move :

"That the Bill, as amended, be passed."

MR. CHAIRMAN : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.