

**SHRI JYOTIRMOY BOSU:** (Diamond Harbour) For your information, there are two sets of rules; one is the rules of procedure and another is the Bagri rules of procedure.

श्री मनी राम बागड़ी । कायदे तो ठीक है । यह लोक सभा कायदे से चलनी चाहिए । लेकिन कई दफा जो रिवाज होते हैं वह भी कायदे बन जाते हैं ऐसी बात नहीं है कि पुराने रिवाज कभी नहीं जाते हैं जरत के मुताबिक रिवाजों को बदला भी जात है । आज यह जरत है कि इस रिवाज को डालो कि अगर ऐसा सवाल आए तो उसक जवाब दिया जाए ।

17.32 hrs.

**SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) AMENDMENT BILL**

**THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRI MAGANBHAI BAROT):** I beg to move†:

“That the Bill to amend the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, be taken into consideration.”

The object of this Bill is to remove difficulties at present encountered in the working of Section 12 of the Act. The Appellate Tribunal for Forfeited Property constituted under Section 12 of the Act consists of a Chairman and two Members. It cannot dispose of a case unless both the Members and the Chairman are present at the hearing of the case. The result is that whenever a Member or the Chairman is absent either on leave or for some other reason, the Tribunal is unable to function. The present amendment provides that

†Moved with the recommendation of the President.

the powers and functions of the Tribunal may be exercised by a Bench consisting of any two Members.

Opportunity has also been availed of to implement the assurances given to the Lok Sabha Committee on Subordinate Legislation by empowering the Tribunal to prescribe appropriate fees for inspection of records and registers in the Appellate Tribunal or for obtaining copies of any part thereof.

I may mention here that this Act came into force on 25-1-1976 after replacing an earlier ordinance of 5-11-1975 on the subject. The Competent Authorities who are entrusted with the administration of this Act have, upto the end of March 1980, initiated forfeiture proceedings in 1965 cases. The approximate value of the properties covered by these proceedings amounts to Rs. 31.40 crores. Out of these 1965 cases, forfeiture orders have been passed in 929 cases involving properties of the value of Rs. 9.13 crores. This Act, therefore, has been very successful in acting as a deterrent against smuggling activities in the country.

I request that the Bill which has been moved to amend the Act may kindly be considered and be passed by the House.

**MR CHAIRMAN:** Motion moved:

“That the Bill to amend the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, be taken into consideration.”

This is a very innocuous Bill.

**SHRI SATISH AGARWAL (Jaipur):** I would like to have one information, with your permission, from the hon. Minister and that is with regard to this—that approximately in 2000 cases the forfeiture procedures have been initiated involving a sum of Rs. 31 crores but actually orders have been passed in a

very lesser number of cases amounting to 929 cases. I would like to know how much property which has been forfeited by this tribunal has been taken possession of by the government so far and what is the government going to do in this connection to take possession of those properties which have been forfeited by this Tribunal and final orders have been passed. I am told that possession has not yet been taken over by the government of lands, buildings and other properties. That is No. 1. No. 2—What does the government propose to do in order to expedite the disposal of pending cases which are pending for practically four years? What new steps and procedures is the government going to initiate in order to expedite the disposal of pending cases?

MR. CHAIRMAN: Now, I would call upon the hon Member Shri Masudal Hossain to speak.

SHRI SYED MASUDAL HOSSAIN (Murshidabad): Sir, our eminent Finance Minister has introduced this Bill only to expedite the Tribunal cases and not to harass the actual smugglers, who are in fact, the enemies of our country and who are the anti-social elements.

Our Finance Minister has very innocently introduced this Bill. But, I think that the entire administration will not cooperate with him. I have seen the *Patriot* dated 14-4-79 that a large number of government servants including Customs Officers, B. S. F. and Air-India officers are also involved in these smuggling cases. They are being patronised by so many political parties—I say all kinds of Bourgeois political parties. That is why our Finance Minister will not get any cooperation from these officials and from his party.

According to Dagli Committee Report, gold smuggling into India in a year is estimated at 50 tons involving a foreign exchange of approxima-

tely Rs. 300 crores. Gold is sought as a hedge against inflation and for speculative purposes, it is convenient for holding black money. Who is holding black money?

MR. CHAIRMAN: The scope of this Bill is limited.

SHRI SYED MASUDAL HOSSAIN: I know the scope is very limited. Who are those blackmoney holders? They are the backbones of the present ruling party. That is why the present ruling party and, at the same time, the Government officials, will not go to arrest those smugglers. If Government officials do not cooperate with the Government, then the purpose of this Bill will be frustrated.

MR. CHAIRMAN: Mr. Kодиyan. You will be given two or three minutes only to speak.

SHRI P. K. KODIYAN (Adoor): Mr. Chairman, Sir, I rise to support this amending Bill. The intention, as the hon. Deputy Minister has pointed out, is to expedite the disposal of the pending cases before the Appellate Tribunal regarding forfeiture of smugglers' property.

But, even after the amendment is accepted, what is the guarantee that the pending cases—these are not small in number—will be disposed of within a short period.

PROF. MADHU DANDAVATE (Rajapur): In the election time they will be disposed of quickly.

SHRI P. K. KODIYAN: I know. Therefore, let us have another quick disposal of all pending cases against the smugglers.

Now, Sir, even though the scope of the Bill is very limited, I want to make a few observations about the smuggling activities. Certain things government ought to take notice of because of the changes that

the smugglers have introduced in their *modus operandi*. I agree that as a result of the anti-smuggling measures taken by the Government the smuggling activities had been curtailed to a large extent but it has not been eliminated and smuggling goes on in different forms.

Now, we are told of late the smugglers...

MR. CHAIRMAN: You will not be able to dilate upon that point. The Bill is restricted to the cases against the smugglers. The time is very limited and, I hope, you will help the House.

SHRI P. K. KODIYAN: I only want to take this opportunity to draw the attention of the government to the new forms of activities which the smugglers are resorting to and to request them to take proper measures to deal with this situation. That is my only intention. Now, they are trying to smuggle goods by air and even by postal services.

Another point to which I want to draw the attention of the government is that on the comparatively ignored sector of our borders smuggling activities of late have been on the increase. I am referring to the Indo-Nepal border which is an open border. This border has to be particularly taken care of and anti-smuggling measures have to be tightened.

Now, I come to the other aspect, namely, taking effective action against the violation of Foreign Exchange Regulation Act. I do not know whether the hon'ble Minister will agree with me on this point. The point is that there seems to be a sense of complacency especially in the Foreign Exchange Enforcement Directorate and other agencies because the inward remittances of foreign

exchange have been on the increase during the last few years. As such, not much attention has been paid with regard to the violation of Foreign Exchange Regulation Act. In this connection I want to draw the attention of the Government to a particular case in which precious stones worth more than Rs. 2-1/2 crores have been kept in Geneva with a Receiver under the orders of a competent court and these goods are said to belong to a family of Jaipur, viz., Golchas and this case happened several years back, before the Janata government, when the Congress government was in power. This case is still going on and on. I don't know why it is prolonging like this. The property is still lying in Geneva. I want to know: What action is being taken against the offenders? What action has been taken to expedite this particular case? What action has been taken to get the properties lying in Geneva back to India? I am quoting only one instance. Much loss of foreign exchange takes place. The country's foreign exchange is lost due to various cases of under-invoicing, when precious stones and diamonds and other costly goods are exported to foreign countries. I don't know what a colossal amount the country is losing by way of under invoicing in our export trade.

MR. CHAIRMAN: You have exceeded your time limit. I have called Mr. Dhandapani.

SHRI P. K. KODIYAN: I only want to have a clarification from the Government on these points.

SHRI C. T. DHANDAPANI (Pollachi): Mr. Chairman, Sir, I support the Bill moved by our hon. Finance Minister in regard to forfeiture of property of smugglers and foreign exchange manipulators. This particular piece of legislation is being brought here for the convenience of the administration. But the spirit of the Bill is to punish manipulators and

smugglers. These types of smuggling activities were curbed very effectively during the emergency right from 1975 till 1977 beginning. But that was a trade legalised after the Janata party came to power because they have always believed in free enterprise. Sir, a Board is being constituted. The members have a right to enquire into these cases. Why they failed to investigate into these cases I do not know. I do not know whether there are any political reasons or not. It is the duty of the Board, that is, the members of the Board, to investigate and to punish the concerned persons. I made a complaint some four years ago against a particular gentleman.

SHRI DINEN BHATTACHARYA (Serampore): Gentleman or smuggler?

SHRI C. T. DHANDAPANI: I should call him a gentleman because he is having a good position in Tamil Nadu. Of course he was a smuggler. I gave a memorandum to the President and he has forwarded it to the Government. Till now I have not get any reply from the government. I do not know what the reason is. The very same person is the present Chief Minister in Tamil Nadu. That question was also raised in the Parliament in regard to the question of violation of foreign exchange.

SHRI SUNIL MAITRA (Calcutta North East): He is not here to reply.

SHRI C. T. DHANDAPANI: I am not naming him. I am just telling—Chief Minister. He got money from Government saying he will utilise that. I am going to tell the facts. He took some money from the Central Government for a particular purpose in foreign exchange, but he did not utilise that amount...

MR. CHAIRMAN: It is not a good policy to refer to those persons who are not here to reply.

SHRI C. T. DHANDAPANI: Government can reply to this. I would like to quote one Question which was asked in this House. The question was by Shri Chittabasu:

“(a) Whether a directive under Section 19 of the Foreign Exchange Regulations Act has been issued to the film star, Shri M. G. Ramachandran by the Deputy Director of Enforcement, Madras;

(b) If so, the date of issue of the same;

(c) Whether any reply has been received from that person; if so, the details thereof;

MR. CHAIRMAN: I am sorry to interrupt you, but we are trespassing in another field...

AN HON. MEMBER: This question was asked probably in Rajya Sabha.

SHRI C. T. DHANDAPANI: It was asked in this very House. The Question No. is 4304 dated 13-12-1972. Further, this question was:

(d) The proposed follow-up action taken or to be taken by the Government thereon?”

MR. CHAIRMAN: How is it relevant?

SHRI C. T. DHANDAPANI: They answered this question here, but no action was taken thereafter. That is my point.

While replying to this question, the Minister of State in the Ministry of Home Affairs and in the Department, of Personnel (Shri Ram Niwas Mir-dha) said:

“(a) and (b). Yes, Sir. A directive under sub-section (2) of Section 19 of the Foreign Exchange Regulation Act, 1947 was issued on 22nd August, 1972 to Shri M. G. Ramachandran, by the Deputy Director of Enforcement, Madras.

(c) and (d); Replies received from Shri M. G. Ramchandran are under examination. It will not be...

MR. CHAIRMAN: How can you refer extensively to the newspaper reports?

SHRI C. T. DHANDAPANI: This is not a newspaper report, but a question asked in this House. I have with me a photostat of the question and the answer given here. I took it from our library. It further says:

"It will not be expedient to disclose further details as it may hamper investigation. Based on results of the investigation appropriate action in accordance with the law will be taken."

This was the answer. I do not know what happened to this matter thereafter. The reason why I am saying this is...

THE MINISTER OF FINANCE (SHRI R. VENKATARAMAN): This would not be right. If the hon. Member wants, he can put a question quoting this question and then the Government will reply.

PROF. MADHU DANDAVATE: Many Chief Ministers would come in now.

AN. HON. MEMBER: Including some Central Ministers also.

SHRI C. T. DHANDAPANI: This type of cases are pending. I would urge upon the hon. Minister to take some stringent action not only against a particular person, but against all those who have violated the provisions of the Act. I request the Government to bring another legislation so that those who violate the Foreign Exchange Regulation Act and are indulging in smuggling are punished severely.

With these words, I conclude and support the Bill moved by the hon. Minister.

श्री मूल बन्ध द्वारा। (पाली) : सभापति महोदय यह जो इस एक्ट को बमड करने की कोशिश की गयी है, मेरे खयाल से यह गलत प्रटेम्प्ट की गयी है। इस एक्ट के सेक्शन 12 के सब-सेक्शन 6 में आपने प्रमेडमेंट की है कि अपीलेंट में तीन की जगह दो मेम्बर होंगे। आपने तीन मेम्बरों की जगह दो मेम्बरों रखने के बारे में कहा है कि यदि तीन मेम्बर होते हैं तो एक मेम्बर बीमार हो सकता है, इसलिए दो मेम्बर रख दिये जाएं।

The reasons which have been given in the Statement of Objects and Reasons are as follows:

"As only a three-member Tribunal has been constituted under the section, in the day-to-day working of the Tribunal it has been found that when one member avails himself of leave on grounds of illness etc., the Tribunal is not able to function..."

अब तीन की जगह दो मेम्बर अगर रख दिये जाते हैं और उनमें से एक बीमार हो जाए तो क्या होगा? एक और बात भी आप देखें। अगर दो मेम्बरों में डिफरेंस आफ ओपिनियन होगा तो दुबारा उस मैटर को रेफर किया जायगा और दुबारा होयरिंग की जाएगी। किस चीज को आप लाना चाहते हैं और उसका परपज क्या है यह मेरी समझ में नहीं आया है। मैं चाहता हूँ कि मेहरबानी करके आप मुझे यह बताएं कि अपीलेंट ट्रिब्यूनल के पास कितने कैमिज हैं, कितनी बार एक मेम्बर के बीमार होने की वजह से बम्बई में या मद्रास में या दिल्ली में या कहीं और कैमिज को एडजार्न करने पर मजबूर होना पडा है किसी मेम्बर के बीमार होने की वजह से या किसी और कारण से। आपने कहा है कि तीन को जगह दो रख दिये जाएं। दो की ओपिनियन अलग अलग हो जाएगी तब क्या होगा? यन अगर

Then a long procedure is provided, for, and it is said that the Appellate Tribunal may entertain in appeal...

फिर से सुनवाई की जाएगी और दुबारा उनको चांस दिया जाएगा। यह चीज मेरी समझ में आई है। आपने कहा है :

"Provided that if the members of a Bench so constituted differ on any point or points, they shall state the point or points on which they differ and refer the same to a third member (to be specified by the Chairman) for hearing on such point or points and such point or points shall

be decided according to the opinion of that member."

Mr. Barot is a new-comer; but he being a lawyer, he must not have suggested this amendment. I do not know what the purpose of this amendment is. So, I have moved an amendment. Why two? Why not one? I have moved that amendment.

मैं एक नई बात बताना चाहता हूँ। एक क्लर पहले से बना हुआ है। जो चीज सर्वाइनिंग लैजिस्लेशन ने पहले से इम्पोज़िट नहीं की है उसके बारे में एग्जिक्यूटिव प्रायोरिटी ने पहले से ही क्लर बना दिया है और ऐसा करके एग्जिक्यूटिव प्रायोरिटी ने हमारे राइट्स पर एनकोबर्ड किया है। जब क्लर पहले से मौजूद था तब समझ में नहीं आया है कि एम्बेडेड प्राप क्यों लाए हैं। क्लर नम्बर 19 इस तरह है।

18.00 hrs.

"(1) (a) Where the decision of the Tribunal is unanimous, a common order shall be signed by all the members of the Tribunal.

(b) Where there is a difference of opinion, the decision shall be in accordance with the decision of the majority of the members of the Tribunal.

(c) The dissenting member may write his own order on the point or points on which he dissents.

(d) The decision of the majority shall be reduced to writing and signed by all the members, including dissenting member."

Now the relevant portion comes. I quote:

"(2) Where the appeal or petition is heard by a Bench and one of the members is unavoidably absent, its record shall be placed before the other members, and such members may, after examining the record and mutual discussion, pass final orders on the appeal or petition..."

So, even the member will not be given a chance of hearing; he will discuss it with the members and then pass an order.

तो जब सर्वाइनिंग लैजिस्लेशन ने अपने क्लर अलग बना लिये हैं

MR. CHAIRMAN: The time is over. It is six O'clock. You can continue tomorrow. The House stands adjourned to meet tomorrow at 11 A.M.

18.01 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, June 12, 1980/Jyaishta 22, 1902 (Saka).*