

[श्री अशोक रहलोत]

केन्द्रीय सरकार के विज्ञान व तकनीकी मंत्रालय ने राजस्थान का पहला भू-उपग्रह केन्द्र एक करोड़ की लागत से जोधपुर में बनाया है जिसके लिए प्रधान मंत्री जी बधाई व धन्यवाद की पात्र हैं। इस से जोधपुर संचार के क्षेत्र में देश के प्रमुख केन्द्रों से शीघ्र ही जुड़ जाएगा। परन्तु जोधपुर के सीमावर्ती क्षेत्र में स्थित होने व पर्यटन की दृष्टि से राजस्थान का महत्वपूर्ण शहर होने की वजह से इसे दूरदर्शन (टेलीविजन) की सेवाएं प्रदान करना अति आवश्यक है। जोधपुर स्थित भू-उपग्रह केन्द्र के माध्यम से जोधपुर को दूरदर्शन सेवाओं से आसानी से जोड़ा जा सकेगा। इसके साथ ही साथ अभी सिर्फ जयपुर में ही टेलीविजन सेवा होने से पूरे राजस्थान के ग्रामीण लोग भी इस महत्वपूर्ण सेवा से वंचित हैं। इसलिए राजस्थान प्रदेश में डिविजनल हेड क्वार्टर्स पर जिसमें जोधपुर के अलावा, बीकानेर, उदयपुर व कोटा भी सम्मिलित हैं वहां तक टेलीविजन सेवा का प्रसार होना अति आवश्यक है। इस को भी अगले सप्ताह की संसद की कार्यसूची में अवश्य सम्मिलित कर संसद में चर्चा करना आवश्यक है।

श्री राम विलास पासवान (हाजीपुर) : अध्यक्ष महोदय, आकाशवाणी और दूरदर्शन एक महत्वपूर्ण माध्यम हैं। उनकी कार्य प्रणाली की समीक्षा लगातार सरकार को करनी चाहिए और शिकायत को दूर करना चाहिए। कुछ गंभीर शिकायतें अभी हाल में की गई हैं। अभी हाल ही में दूरदर्शन के एडीशनल डायरेक्टर जनरल को कार्य मुक्त कर दिया गया है। इस से लोगों के दिमाग में तरह तरह की भ्रांतियां फैल रही हैं।

अतः सरकार से आग्रह है कि सारे तथ्यों को सदन के समक्ष रखें और सदन को विश्वास में ले।

दूसरे, जैसा कि मेहता जी ने कहा, बी. पी. मंडल आयोग की रिपोर्ट सदन में रखी जाए, मेरी भी सरकार से मांग है कि सरकार बी. पी. मंडल आयोग की रिपोर्ट को सदन में रखे।

इन विषयों पर सदन में अगले सप्ताह विचार किया जाए।

श्री चतुर्भुज (भालावाड़) : अध्यक्ष महोदय, आगामी सप्ताह की कार्यसूची में निम्नलिखित विषय सम्मिलित किया जाये :—

राजस्थान में भीषण विद्युत कमी के कारण उद्योग धंधे प्रभावित हुए हैं जिसके कारण अनेक लोग बेरोजगार और बेकार हो गये हैं। राजस्थान एटामिक पावर प्रोजेक्ट से उत्पादन प्रायः बंद सा है। इसी प्रकार कोटा थर्मल में आग लगने से उत्पादन में विलम्ब हो गया है।

अतएव केन्द्र सरकार से आग्रह है कि बिजली की कमी को दूर करने के लिए दूरगामी कार्यक्रम तैयार कर उस पर अमल किया जावे तथा बिजली की कमी की पूर्ति की तत्कालीन कोई व्यवस्था की जावे जिससे प्रदेश के उद्योगों तथा कृषि को तथा अनेक लोगों को बेरोजगारी से बचाया जा सके।

यह विषय चर्चा में सम्मिलित किया जाए।

14.15 hrs.

INDUSTRIAL DISPUTES (AM- ENDMENT) BILL*

THE MINISTER OF STATE
OF THE MINISTRY OF LABOUR
(SHRI BHAGWAT JHA AZAD):
Sir, I beg to move for leave to in-
troduce a Bill further to amend
the Industrial Disputes Act, 1947.

SHRI INDRAJIT GUPTA:
(Basirhat): Sir, I rise to oppose
this Bill at the introductory stage,
my main contention being that
this Bill is bad in law.

MR. SPEAKER: One minute.
We overlooked something. The
Hon. Minister likes to say some-
thing.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI P. VENKATASUBAIAH): I repeat that everything will be taken care of what Mr. Indrajit Gupta has said.

MR. SPEAKER: Token care of. The Hon. Minister will also take care of it. His assurance is given. It is all right.

SHRI RAM VILAS PASWAN: What about B. P. Mandal report.

SHRI P. VENKATASUBAIAH: Sir, you have already given your ruling in the House. What more can we say?

SHRI INDRAJIT GUPTA: This amending Bill to the Industrial Disputes Act, 1947 has been promised for a long time to this House. I must make one remark that his predecessor Shri Narayan Datt Tiwari has, more than once, assured us that before the draft of the Bill is finalised, there will be consultations held with all the Central Trade Union Organisations—with whom the Government normally has consultations—and after getting their views and hearing their suggestions, then, the final draft of the Bill will be introduced.

It seems that that assurance also has not been honoured now.

I presume that the assurance given by Shri Narayan Datt Tiwari should be at least morally binding on Shri Bhagwat Jha Azad also.

But anyway that assurance has not been adhered to.

You will say that it is not a good enough reason for opposing the Bill at this stage.

One of the most important provisions in the Bill is that the

employees who are working in certain institutions like hospitals, dispensaries and educational, scientific, research or training institutes, etc., should be excluded or rather the institutions in which they work should be excluded from the purview of this Bill because according to the Government they do not fall within the definition of 'industry.' Nobody is disputing, the Government is also not disputing, that the people employed there are workmen. It is not sought to be put that they are not workmen within the meaning of the Industrial Disputes Act, but the institutions in which they are working are sought to be put now outside the purview of the definition of 'industry.' Therefore, if that Bill goes through, it will create, what I should say, an invidious discrimination between employees and employees; employees who are working in these institutions and those who are not working in these institutions are being divided artificially into two categories, one who will fall within the Industrial Disputes Act and have the advantage and benefits of the procedures and processes laid down in this Act for the resolution of disputes, and another set of employees for whom the Minister promises that, some time in future, he will bring forward a separate legislation. What that separate legislation is going to be, we do not know; when it will see the light of the day, we do not know; and we are not interested in that separate legislation also. The point is that this question, particularly, pertaining to hospitals, medical institutions and educational institutions, whether they should be regarded legally as 'industry' or not, was an old matter of controversy which was being debated for a long, long time and finally the Supreme Court went into this matter and in its judgement of the 21st February, 1978, the hon. Justices of the Supreme Court, Mr. Justice

Shri Indrajit Gupta

Krishna Iyer, not only Mr. Justice Krishna Iyer but also Mr. Justice Chandrachud, who is at present the Chief Justice, Mr. Justice Jaswant Singh, Mr. Justice Tulzapurkar and Mr. Justice Beg, all of them—adducing, of course, different reasons: some of them have given different arguments and different reasons—have come to a common conclusion that a hospital, by virtue of being a medical institution or a college, by virtue of being an educational institution, cannot be considered to be outside the pale of the definition of 'industry' within the Industrial Disputes Act. Unfortunately I have not got the time to quote extensively from this judgement. If you are interested, you can go into it. I am sure the Minister is familiar with it. But the arguments which are likely to come from his side, that these are not profit-making institutions, they are institutions where a different sort of atmosphere should exist or something like that, where a different type of relations should exist, have been discussed in detail by the hon. Justices of the Supreme Court and they have held that it is not a question at all of, it has nothing to do with, whether it is a profit-making or a non-profit making institution. If I may quote one or two sentences:

"Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

"The true focus is functional and the decisive test is the nature of the relationship between the employer and the employee.

"If the organization is a trade or business, it does not cease to be one because of philanthropy animating the undertaking."

That means, if it is a charitable institution or something like that. They have argued at length I

cannot quote extensively because of lack of time—

The point is that, if there are employees who are employed either for some production or for some service or whatever it is, the relation between the employer and the employee exists and that is the decisive test for determining whether, for the purposes of this Act, they should be brought within the definition of 'industry' or not, and the Supreme Court has held very definitely that they are. If the spirit and the letter of this judgement are to be followed, then when the amendment to this Act is brought forward, the aim should be to widen and broaden the definition of 'industry' whereas what is being sought to be done by this is just the opposite. It is a restrictive Bill. It is seeking to exclude certain institutions, a large number of institutions, which means that the employees employed therein will be treated as a separate category and class altogether. Why? We do not know. There is some kind of a vague impression that if anybody comes within the Industrial Disputes Act, it will lead to some multiplication of industrial disputes or more agitations or strikes or something like that. That is not the purpose of the Industrial Disputes Act. The Industrial Disputes Act was legislated in 1947 for the express purpose of providing a certain machinery and procedure so that disputes which arises between the employer and the employee can be properly regulated and can be properly settled and solved. And what is the superior type of machinery which he intends to bring forward to deal with this other category of employees—we do not know. But why they should be deprived of the benefit under this act in view, especially of the fact that the Supreme Court has held just to the contrary, is

something which we consider not only inequitable but it is clearly flying in the face of the Supreme Court's findings, their views and observations. Therefore, this Bill is certainly bad in law and it can be challenged in a court of law on the basis of the 1978 Supreme Court judgement. We do not want to be party in this House to these types of legislations which we can see beforehand, are likely not to stand the test of the law at all. They will not serve any purpose also because by excluding these employees from its purview, you are not going to ensure in a greater measure, what you may call employer-employee peace or good relations there. Those do not depend on this. They depend on something else—how the management behaves there, what is the situation there, whether they are being properly looked after and so on. But why should the machinery which is available already under the Act to solve those disputes and to settle those disputes be removed? The hon. Judges of the Supreme Court have argued at length and they have said that there is no justification whatsoever. This is my main point.

Secondly, discrimination is being created not only between those employees held to be outside the pale of this Act and those who are kept inside. But there are so many others. For example, if I may mention one, take a workman who is earning more than Rs. 1600 a month and I presume there must be many like that because on other occasions here when dealing with matters pertaining to LIC employees or GIC employees or Bank employees, we are always told from that side, 'Oh! These are high-wage island people getting Rs. 3000 a month and some are getting more than what even a Joint Secretary to the Government of

India do not get.' So an employee who is a workman under the Act, may be earning certainly more than Rs. 1600 a month. But what does this Bill provide? A supervisor, a person belonging to the supervisory staff, that is a person who supervises the work of the workmen who are under him, that member of the supervisory cadre cannot be brought under this Bill unless he is drawing Rs. 1600 or less than Rs. 1600. If he earns more than Rs. 1600, he may be a supervisor or anybody performing the managerial duties, but if he gets more than Rs. 1600 a month, he cannot be brought under the purview of this Act. But the workman who is below him and whose work he may be supervising, may be earning Rs. 1800 or Rs. 2000 a month, but he remains a workman under this Act. This is an invidious discrimination and is bad in law and is certainly not conducive to good industrial relations whatsoever and therefore, this is a matter and of course, on its merits we can argue later on, what the ceiling should be, how it should be calculated and fixed. But on the face of it it is a ridiculous legal absurdity.

The other question is that discrimination is being made here between those workmen who are victims of a closure, a closure by the employer and those who are victims of a lock out. In the case of a closure, the Bill provides that the employer must, before he closes his factory, he must give due notice to the Government—90 days is the period stipulated—and he must give in writing why he proposes to close down his factory and so on and so forth and then, of course the Government will go into that. Only if the Government gives permission, then, that closure can be brought about. Otherwise, it will be an illegal closure.

[Shri Indrajit Gupta]

But, in the case of a lock-out, there is no such previous obligation on the employer, whatsoever. I think the Labour Minister can tell us kindly how many industrial establishments are lying locked-out in this country at present. One major textile mill, which I know of, employing 10,000 workers and producing three lakhs metres of cloth per day is locked out since the 8th of December last year. That is the Kesoram Cotton Mills belonging to Birla in Calcutta. It was not a closure; it was a lock-out. For so many days that unit was closed; so many lakhs of metres of cloth production has been lost. I do not know how many lakhs or crores of rupees worth of excise duty has been lost to Government. But, there is no provision in the Bill that in the case of such a lock-out, that is, the lock-out which is deliberately contemplated and imposed by the employer, there should be any obligation for him to come and tell the Government that for these reasons, I cannot carry on. Now, I propose to impose a lock-out. Nothing. In the case of a closure, it is a good thing that he will have to give a prior notice and seek the approval of the Government. If I am a workman employed in a mill which is closed down. I must have this protection at least that the employer will have first to go to Government and get their permission. If I am working in a mill which is to be locked. I have no such protection. What kind of discrimination is this? When I am checked out on the streets, it matters very little to me whether the mill is locked out or is closed down.

So, I would say that for all these, the whole chapter of 'Unfair labour practice'—I hope, my friend, Prof. Dandavate will not mind if I remind him—has more or less been lifted wholesale out

of the Janata Government's Industrial Relations Bill. We were always running down the things the Janata Government used to do. But, on this particular matter, there is no difference at all. This unfair labour practice has been smuggled in by the backdoor, taking it from the Janata Government's Bill which was opposed at the time by your own trade union organisations also, I remember, very vehemently. (Interruptions) Anyway, I will say that in a reverse way, discrimination has been brought in. The penalties sought to be imposed are equal. That means, if a workman or a trade union official commits what is called an unlabour practice, he can be fined upto Rs. 1,000/- or he can be sent to jail and the same penalty is imposed on an employer who may close down or lock-out a factory employing 10,000 people. An employer who locks out a factory employing 10,000 people, what is this fine of Rs. 1,000/- to him? If a worker who may go on strike or who may do something like slow-down, can also be fined upto Rs. 1,000/- or sent to jail. I say there is no sense of equity or justice or anything behind this Bill.

Apart from that, my main contention is on a point of law. That is, they cannot bring a Bill like this whose main provision is to fly directly against the Supreme Court finding, opinion, whose whole logic was that the scope of the definition of industry should be widened to include—these are the institutions. Whereas they are deliberately doing just the opposite, restricting it and creating two sets of employees for one of whom he promised some new legislation in the future and, in the mean time, they are to be deprived totally of the processes and procedures which are laid down under the existing Industrial Disputes Act.

So, I oppose this Bill, Bill should not be introduced in keeping with the previous assurance given. He should hold some discussions and consultations with the Central Trade Union Organisations and with the employers also of course, if he wants to and, then only, on a considered and matured judgement, the whole Bill should be drafted or redrafted again before this is brought before the House.

PROF. MADHU DANDAVATE (Rajapur): Sir, it is customary that at the introduction stage, we do not go into the merits of the Bill. Whatever we have to say on merits of the Bill we say that at the stage of consideration. But, I rise mainly to challenge the legislative competence of this Bill. To my mind that is more important. Before I put forward my point of view in the light of Statement of Objects and Reasons which refers to this point directly and to Supreme Court also I would like to bring to your notice that whenever certain decisions are given by the Supreme Court they have got far-reaching consequences. By way of comparison I would say that Article 36 of the Constitution gives Parliament the right to amend any part of the Constitution but what exactly is the scope of that particular amending power. When that came under dispute the matter went to the Supreme Court and it gave ruling that under Article 368 of the Constitution both Houses of Parliament can amend the Constitution subject to the condition that the basic structure of the Constitution must not be changed. If today we are not finding any effort to change the system it is mainly because of this Kesavanand Bhabrat judgement in which this idea is put. Similarly, as far as this

Bill is concerned in the end of the Statement of Objects and Reasons it has been stated and I quote:

"It is accordingly proposed to redefine the term 'industry'. While doing so, it is proposed to exclude from the scope of this expression, certain institutions like hospitals and dispensaries, educational, scientific, research or training institutes, institutions engaged in charitable, social and philanthropic services..."

Sir, as far as this redefinition is concerned it goes against the decision of the Supreme Court and I have here with me the All India Reporter, 1978. There are a number of cases where the judgement has been delivered and the earlier ruling have been overruled. My colleague has just now rightly pointed out that Industry has been defined in a particular way by which hospitals, educational institutions, etc. all of them fall within the category and jurisdiction of Industry and efforts to get that particular decision changed failed in the Supreme Court. So, Supreme Court decision is the law of the land but I anticipate what will be the line of argument of the Labour Minister and it is also for nothing that the Law Minister is sitting. Because he expects certain legal troubles in the matter and, as such, he is there.

Here I will tell you what shelter they are likely to take before you give the ruling you can try to see as to what they have said and what shelter they are likely to take. They have also said in Part (ii) of the Statement of Objects and Reasons and I quote:

"The Supreme Court in its decision in the Bangalore Water Supply and Sewerage Board Vs. Rajappa and others had, while interpreting the defini-

tion of 'industry' as contained in the Act, observed that Government might restructure this definition by suitable legislative measures."

This is how they are going to take shelter. They have not said it as yet but they have mentioned it in the Statement here. I would like to clarify the scope of this particular statement made in the statement of objects and Reasons. In conjunction with this statement of the Labour Minister in the Statement of Objects and Reasons I will further quote from All India Reporter, 1978 and that will clarify this point:

"There is nothing, however, to prevent a statute from giving the word 'industry' and the words 'industrial disputes' a wider and a more comprehensive import in order to meet the requirements of rapid industrial progress, in the interest of industrial peace and economy a fair and satisfactory adjustment of relations between employers and workmen in a variety of fields of activity."

My contention is this. In the Supreme Court Judgement they have not only considered the powers of the legislature to re-define industry, to re-define the term worker, to re-define the jurisdiction, etc. but the word used is that it is to be done in such a way that 'wider and more comprehensive import' has to be given. What is the interpretation that they are giving to the judgement? What do they seek to do? To my mind, what they seek to do is not to make it wider and more comprehensive, but they are only trying to narrow it down more and more. Instead of making the concept of industry more wider and more comprehensive, they are only doing the exactly opposite thing; they are making it narrower and narrower. That is

why I am challenging the legislative competence of the Bill. Of course, on the merits, I have certain things more to say. But I will not say these at this stage of the introduction of the Bill.

श्री सत्यनारायण चाटिया (उज्जैन) :
 अध्यक्ष महोदय, श्रम मंत्री जी ने औद्योगिक विवाद (संशोधन) विधेयक, 1982 को सदन में प्रस्तुत करने का उपक्रम किया है। अभी दो दिन पहले माननीय श्रम मंत्री जी ने एक गोष्ठी में जो स्टेटमेंट दिया, मुझे वह कहने के लिए बाध्य होना पड़ रहा है। उन्होंने कहा है कि सार्वजनिक उद्योग के क्षेत्र में ट्रेड यूनियनों की भूमिका ठीक नहीं है। यदि कोई उद्योग मंत्री यह बात कहता, तो शायद वह समझ में आता। लेकिन देश का श्रम मंत्री कहे कि ट्रेड यूनियनों ठीक से काम नहीं कर रही हैं, निश्चित तौर पर यह एक चिन्ता का विषय है। मैं श्रम मंत्री जी से कहना चाहता हूँ कि यह वर्ष उत्पादन का वर्ष माना जाता है और "श्रमवे जयते" का नारा भी दिया गया है, इस लिए श्रमिकों की इस प्रकार उपेक्षा और श्रमिकों के अधिकारों का लगातार अतिक्रमण वाजिब नहीं है। इसलिए मैं इस विधेयक के आचिंत्य का प्रतिवाद करने के लिए खड़ा हुआ हूँ।

इस विधेयक के उद्देश्यों और कारणों में बंगलौर वाटर सप्लाई एंड सीवररेज बोर्ड के मामले में सुप्रीम कोर्ट के जजमेंट का सहारा लेते हुए कहा गया है :— "तदनुसार 'उद्योग' पद को पुनः परिभाषित करने का प्रस्ताव है"। इस संबंध में राष्ट्रीय श्रम आयोग (1969) की सिफारिशों का भी जिक्र किया गया है। सरकार को 12 साल के बाद याद आ रहा है कि आयोग की सिफारिशों को इम्प्लीमेंट करना है। इससे पहले एसोसिएशन सर्विसिज मेनटेनेंस एक्ट लाया गया है। इन कार्यवाहियों के आचिंत्य को प्रतिपादित करने के लिए श्रम मंत्री ने जो विधेयक रखा है, वह उपयुक्त नहीं है।

SHRI SATYASADHAN CHAKRABORTY (Calcutta South): I most vehemently oppose the introduction of this, yet another black Bill, by the Ruling Congress

(I) party. It is not only bad in law, it is not only against the Supreme Court's verdict, but it is violative of all the essential spirit of our constitution; right of collective bargaining is given a go-by; in the name of industrial peace and discipline, what you are trying to do is, you are trying to enslave the working people of this country. Sir, I can quote from the Supreme Court judgement...

MR. SPEAKER: It has already been done.

SHRI SATYASADHAN CHAKRABORTY: Mr. Indrajit Gupta has done it. It has precisely been stated as to what 'industry' means. What is their attempt now, Sir? They are now trying to bring educational institutions, hospitals, etc. within the purview of the Industrial Disputes Act. During the Janata regime they introduced 'Hospitals and Educational Institutions Bill' and all the teachers and all the workers united opposed that measure at that time. At that time that Bill was not introduced, but they have that Bill now. They tried to take out persons who are working in hospitals and educational institutions out of the purview of this Bill. A separate Bill is there, where they are taking away the rights of the teachers and the workers in hospitals of collective bargaining. This, I object, in principle.

Now, what they are saying is like a sugar-coated pill. There are certain things for the employers, but when the question of employees comes they say that only the employees of the recognised unions can do certain things. What about the secret ballot, what about the majority of the workers backing the union. You do not say anything about that.

Our Constitution provides the right to freedom, and collective bargaining is a part of that. This

has been achieved through protracted struggle by the workers. I, therefore, vehemently oppose the introduction of this Bill. This authoritarian Government does not seem to have been satisfied with ESMA, NSA, and now they have brought this Bill to take away the rights of the workers.

You believe in family planning, and this child should not be allowed to come. Let us not increase the number, and this should be nipped in the bud. I would request the Minister not to press for the introduction of this Bill.

MR. SPEAKER: You want birth control for the Bills also.

SHRI SATYASADHAN CHAKRABORTY: Yes, Sir.

SHRI SUNIL MAITRA (Calcutta North East): Mr. Speaker, Sir, the reason for bringing forward this Bill given by the Statement of Objects and Reasons is perhaps the grossest type of distortion of the Supreme Court judgement. I would like to quote a few lines from the Supreme Court judgement, in which they have defined the industry:

"Where (i) systematic activity (ii) organised by cooperation between employer and employee (the direct and substantial element is chimerical), (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual) or religious but inclusive of material things or services geared to celestial bliss, i.e. making on a large scale prasad or food, prime facie there is an 'industry' in that enterprise."

The Supreme Court says in its judgement that even the act of making prasad is also included in the term 'industry'. The entire thrust of the judgement of the Supreme Court is to enlarge the

[Shri Sunil Maitra]

scope of definition of the industry, but here is a Bill which is trying thoroughly not only to contract it, but to distort the entire judgement thoroughly. In the name of the same judgement today this Bill is being sought to be introduced. I oppose the introduction of the Bill.

Secondly, it contains a substantial portion of the Industrial Relations Bill which these people opposed during the Janta regime. I remember, Shri A. P. Sharma—he is not present in the House now—gave a fiery speech in 1978 in a rally which all of us had organised against the Industrial Relations Bill and said that if the Janta Government passed that Bill, the working class would throw out the Government. I wish, he should have been present here at least to listen to us today. The same Cabinet, to which he belongs, has decided to bring forward this Bill.

PROF. MADHU DANDAVATE: We were thrown out before the Bill was passed.

SHRI SUNIL MAITRA: My colleague, Shri Indrajit Gupta, has already mentioned that these things were supposed to be discussed in the Indian Labour Conference. The Indian Labour Conference has been kept in deep freeze and even without discussing with the Central Trade Union Organisations, this Bill is being introduced here.

Lastly, a section has been put in this Bill, which is stated to be about the grievance settlement proceedings. That means once the so-called the grievances settlement procedure is substituted the right of collective bargaining will go.

Then my last objection to your Section 21 of the Bill, which says:

"If the appropriate Government is satisfied, then in all the industries, including the bank-

ing, the Life Insurance Corporation, General Insurance Corporation, all the industries can be taken out of the purview of the Industrial Disputes Act by this amending Bill."

Therefore, on these grounds I oppose the Bill.

SHRI AJOY BISWAS (Tripura West): Sir, I rise to oppose the Bill because on this Bill the Central Trade Unions were not consulted. Even the All India Trades Union Federation, which represents the 50 lakh employees and teachers was not consulted. I also oppose this Bill because majority of the Central Government employees will also come under the purview of this Bill.

Sir, it is not only against the verdict of the Supreme Court, but is also against the total principles of the Constitution.

Sir, from this one thing is very clear. They are expanding the rights, facilities and privileges of the monopoly houses. Already in 1980, the Government changed the Industrial Policy; they have changed the Licensing Policy. Side by side they are bringing in the anti-labour and black laws. ESMA is there, the National Security Act is there. Now they have brought in this Bill.

During the Janata regime this Bill was brought in and we opposed it both inside and outside the House. Now there is a nice similarity with the Janata Government and the Congress (I).

They are bringing in black laws. They are going to link the wage with productivity and I am sure they are going to announce that kind of a wage policy. So, I oppose the introduction of the Bill.

MR. SPEAKER: Shri Bhagwat Jha Azad.

SHRI SATYASADHAN CHAKRABORTY: Sir, let the Minister be frank. Is it a part of the IMF business? Be frank at least.

THE MINISTER OF STATE IN THE MINISTRY OF LABOUR (SHRI BHAGWAT JHA AZAD): I will be very frank as you have been, but give me a chance to be heard. Sir, I heard them in a pin-drop silence; I expect the same from them. They should not give running comment. I will be very frank. Whatever I feel I will speak. I never believe in hiding anything from the House. Having been on that side of the House, I know what the House wants to know from the Minister. You may very well say: that you do not agree with me, but I will never mislead the House.

SHRI SATYASADHAN CHAKRABORTY: Except truth you will hide nothing.

SHRI BHAGWAT JHA AZAD: Sir, that is the privilege of the CPM Party.

Sir, I will say that objections to the Bill are based on two types of points. One is that it is bad in law and second that the competence of the House has been challenged that it has not to legislate it. And that is the point for the present to which Prof. Madhu Dandavate strictly limited himself. And of other points on which Shri Indrajit Gupta and others spoke, I will reply properly when the Bill comes up for consideration.

Sir, we have not done anything against what the Supreme Court has said. The Supreme Court has said:

"For industry, it should be where (1) system activity; (2) organised by cooperation between employer and the employees and (3) for human wants and wishes for the production

and distribution of goods and services calculated to satisfy human wants and wishes."

These are the important considerations under which industry should be defined.

If you see the definition of the industry in this proposed Bill, it is exactly the same three grounds we have said. These are the three grounds. One says: "Industry means any systematic activity carried on by cooperation between an employer and the workmen"; and the other, "employed for production, supply and distribution of goods and services with a view to satisfy human wants and wishes."

We have done this. My friends ask: Why you have, from this definition, excluded hospitals, educational institutions and scientific research institutions? That is their main consideration. What I am saying is this: we are bringing in another Bill in which we will take care of this. (*Interruptions*) Why? I will reply now.

We are not denying the persons employed in these institutions—their right, as our friends loudly say here, of collective bargaining. No, Sir; that is not the intention of the Government. Even to-day, there are employees who are not covered by the Industrial Disputes Act; but they are covered by other machineries like the Joint Consultative Machinery and their Fundamental Rules and Supplementary Rules. We are not introducing anything in this, which is not prevalent in the country to-day.

The question is—why? Let this House frankly decide. I do not want to hide things. It is not my argument. Let the House and Members appreciate. Would they like the same atmosphere or the same kind of activity? And, in the event of failure of those activities wherever there is a dispute between the employer and employees,

[Shri Bhagwat Jha Azad]

do they want it to be dealt with as it is done in industrial and commercial institutions—I mean when the disputes arise in the All India Institute of Medical Sciences, Jaslok Hospital or the Medical College Hospitals at Lucknow or Patna, or the Delhi University or the JNU?

What I am saying is this: this Bill is not at all what our friends say, viz. that it is restricting what the Supreme Court says. No, Sir. It is the other way about. At present, the Industrial Disputes Act, 1947 does not include the professional classes, professions like salesmen, lawyers and others. This Bill exactly is doing it the other way about. Rather, we are not dropping anything, as friends say. We are not taking away anything, through this Bill. Therefore, we are not restricting. We are adding; and we are adding many other things like sales promotion people, doctors, lawyers and chartered accountants.

My friend, the professor, protested, and I took note of it then. He said that these professions and others should be included. I have included. It is the other way about. What I am saying is this: we are bringing in another Bill. Kindly see the whole thing in its totality. The totality is this: we are bringing in another Bill before the House in which we will bring in hospitals and educational institutions. We will provide a grievance machinery in that, as there are machineries to-day. All the grievance machineries are not under the Industrial Disputes Act.

The judgement has been quoted. I also want to quote from the same judgement. This is very relevant for me. In the definition of 'industry' we had given all the three important criteria which were given by the Supreme Court. The

Supreme Court had also said another thing—which is to be noted by friends:

“Constitutional and competently enacted legislative provision may well remove from the scope of the Act, categories which otherwise may be covered thereby.”

Government is not doing anything arbitrarily. I am coming to the constitutional and competent authority, viz. Parliament to say that we propose that hospitals, educational institutions, research institutions and institutions where sovereign powers like those exercised in Atomic Energy are involved, should be dealt with in another Bill providing for another type of grievance machinery. Not that we are taking away collective bargaining from that. Therefore, it is absolutely putting it the other way.

15.00 hr.

We are acting fully according to what the Supreme Court has said. We have taken the three important criteria in respect of 'industry'. According to this, we are only saying this. It is for the House to decide. Would they like that in the All India Institute of Medical Sciences, or for that matter in any hospital, the something, the strike notice, strike and the lock-out should be there. Therefore, we are not doing anything like that. For the information of Prof. Madhu Dandavate, I will say only one thing. (*Interruptions*) I have heard you. (*Interruptions*) This is not the argument which you are saying. We do not agree with your argument. I have said according to constitutional and legal priority. I am not saying anything otherwise. According to the Supreme Court, this House has got power, as I said, constitutional and competently enacted legislative provisions may well remove

from the scope of the act category; and that is what I am doing: and why I am doing I have made it clear by examples and not by lecture.

Some of the friends feel that by saying this only they have sympathy for the workmen and that we are not doing anything. For the information of Prof. Dandavate, I want to say only one thing. This friend may call me a reactionary. But I would say one thing by and large, the Janata Government miserably failed in all fronts; but that does not mean that sometimes somewhere they had no light of intelligence and wisdom; they had. (Interruptions)

SHRI INDRAJIT GUPTA: Very good.

SHRI BHAGWAT JHA AZAD: Whatever Mr. Indrajit Gupta may call me reactionary or progressive, whatever is his choice, when Prof. Dandavate was sitting in his Cabinet as the then Railway Minister, he had approved a Bill in which the definition of industry is the same as I have done. Personally, he might have drawn upon our information be forehand. (Interruptions)

SHRI INDRAJIT GUPTA: I am glad of this admission.

SHRI BHAGWAT JHA AZAD: Of course, I have already said in the beginning that I do not want to hide anything from the House. We want to take honey from every wisdom that is there. There were very few in the Janata Party; and those few, as I said about the definition of industry, had themselves said. . . . (Interruptions) This is done by the Janata Government—any hospital including a dispensary, any educational scientific, research or training institution, any organisation exclusively engaged in charitable, social philanthropy. In this case, I must say the judgement was out; then it was known to the Janata Govern-

ment and Prof. Madhu Dandavate, the then Minister of the Cabinet. I must say, at least once in a small field, they did the right thing and that right thing was that in the industrial definition, they took what the Supreme Court said. I have also done the same thing. (Interruptions)

SHRI SUNIL MAITRA: You opposed that. (Interruptions)

SHRI BHAGWAT JHA AZAD: Therefore, I would say in this House that this Bill is not bad in law, because this Bill exactly works upon what the Supreme Court has said about the industrial definition. (2) Where we are taking hospital and others, we are bringing forward another Bill. It will see the light of the day soon. I promise I will quickly bring it forward in this session; I will introduce it. I have not consulted my Department, but I will see that I do it. I show my judgment and intention that I do not believe in curtailing the rights of the workmen. Rather, it is the other way. They want to exploit the labour for political reasons. I want to support the labour for my socio-economic policy. (Interruptions)

SHRI INDRAJIT GUPTA: That is the honey that you have got.

(Interruptions)

SHRI BHAGWAT JHA AZAD: Mr. Indrajit Gupta himself should search out his heart. Why every day does he agree with Prof. Dandavate? If he is so bad, he should not agree with him always. If I once agree, he calls me a real reactionary. (Interruptions) By now, he has become an extraordinary reactionary by always supporting Prof. Dandavate.

MR. SPEAKER: You mean to say that a man is known by the company he keeps:

SHRI BHAGWAT JHA AZAD: Therefore, in the three ways that

[Shri Bhagwat Jha Azad] have been raised, it is good in law. This is constitutional I have come to the proper authority, to the proper forum competently and I want to say I have not dropped anything out of this Bill. I have not restricted its provisions; I have expanded its provisions. And for Professor's information, because then he was not here, now I put him in picture. (Interruption) No problem.

MR. SPEAKER: It is all right. He has brought him into the picture.

SHRI BHAGWAT JHA AZAD: Therefore, I request. (Interruptions) the hon. Members not to oppose the introduction of the Bill. Let them oppose the provisions at the appropriate moment, and then we shall think over and consider, and then we will give them another pointed reply.

AN HON. MEMBER: Only one clarification please. (Interruptions).

SHRI INDRAJIT GUPTA: Why have you violated your predecessor's assurance that this draft will not be finalised without consultations? (Interruptions).

SHRI SATYASADHAN CHAKRABORTY: At that time we were opposing the Janata Bill for hospital and education policy, and your Party joined us and you criticised the Janata Government. At that time, if it was reasonable, what has happened in the mean time? (Interruptions). How has the reason changed?

MR. SPEAKER: Ideas change overnight.

SHRI BHAGWAT JHA AZAD: I can reply this point. I have no hesitation. I do not know on what grounds and which of the provisions my friends then opposed.

But suppose, any man, if we could not decide then, (Interruptions) and if he has rightly decided now, it does not stop a man from re-considering a decision on good points. And this is a good point.

I, therefore, bag to move for leave to introduce a Bill to amend the Industrial Disputes Act, 1947.

MR. SPEAKER: The question is . . .

(Interruptions)

SHRI SATYASADHAN CHAKRABORTY: This only follows when they are in power.

SHRI INDRAJIT GUPTA: Janata poison has become Congress honey!

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Industrial Disputes Act, 1947."

The Lok Sabha divided.

(Interruptions)

MR. SPEAKER: Now, the lobbies have been cleared.

The question is:

"That leave be granted to introduce a Bill further to amend the Industrial Disputes Act, 1947."

The Lok Sabha divided.

Division No. 5 15.12 hours

AYES

Ahmed, Shri Gulsher
Ajit Pratap Singh, Shri
Alluri, Shri Subhash Chandra
Bose

Arjunan, Shri K.

Azad, Shri Bhagwat Jha
Banatwalla, Shri G. M.

Bansi Lal, Shri

Bhakta, Shri Manoranjan
 Bhoi, Dr. Krupasindhu
 Bhoie, Shri Reshma Motiram
 Chandra Shekhar Singh, Shri
 Chennupati, Shrimati Vidya
 Dabhi, Shri Ajitsinh
 Daga, Shri Mool Chand
 Das, Shri A. C.
 Dennis, Shri N.
 Deb, Shri Sontosh Mohan
 Gadhavi, Shri Bheravadan K.
 Gehlot, Shri Ashok
 Gomango, Shri Giridhar
 Gouzagin, Shri N.
 Jain, Shri Bhiku Ram
 Jain, Shri Virdhi Chander
 Jamilur Rahman, Shri
 Jha, Shri Kamal Nath
 Kahandole, Shri Z. M.
 Kamal Nath, Shri
 Kaushal, Shri Jagan Nath
 Keyur Bhusan, Shri
 Madhuri Singh, M. M.
 Mahabir Prasad, Shri
 Mallikarjun, Shri
 Mishra, Shri Uma Kant
 Misra, Shri Nityananda
 Murthy, Shri Kusuma Krishna
 Murugian, Shri S.
 Namgyal, Shri P.
 Palaniappan, Shri C.
 Pandey, Shri Krishna Chandra
 Parmer, Shri Hiralal R.
 Patel, Shri Shantubhai
 Patnaik, Shrimati Jayanti
 Pattuswamy, Shri D.
 Pilot, Shri Rajesh
 Poojary, Shri Janardhana
 Raju, Shri P. V. G.
 Ramalingam, Shri N. Kudanthai
 Rane, Shrimati Sanyogita
 Rawat, Shri Harish
 Saminuddin, Shri

Sebastian, Shri S. A. Dorai
 Sethi, Shri Arjun
 Shakya, Shri Daya Ram
 Sharma, Shri Kali Charan
 Sharma, Shri Nand Kishore
 Sharma, Shri Nawal Kishore
 Shastri, Shri Hari Krishna
 Singh, Shri C. P. N.
 Soren, Shri Hari Har
 Sparrow, Shri R. S.
 Sunder Singh, Shri
 Tewary, Prof. K. K.
 Varma, Shri Jai Ram
 Venkatasubbaiah, Shri P.
 Vyas, Shri Girdhari Lal
 Wasnik, Shri Balkrishna Ram-
 chandra
 Yadav, Shri Ram Singh
 Yazdani, Dr. Golam

NOES

Balan, Shri A. K.
 Biswas, Shri Ajoy
 Chakraborty, Shri Satyasadhan
 Dandavate, Prof. Madhu
 Gupta, Shri Indrajit
 Jatiya, Shri Satyanarayan
 Maitra, Shri Sunil
 Mehta, Prof. Ajit Kumar
 Rai, Shri M. Ramanna
 Rajan, Shri K. A.
 Rakesh, Shri R. N.
 Rasheed Masood, Shri
 Roy, Shri A. K.
 Shamanna, Shri T. R.

MR. SPEAKER: Subject to correction, the result* of the division is:

AYES: 68

NOES: 14

The Motion was adopted.

SHRI BHAGWAT JHA AZAD:
Sir, I introduce the Bill.

15.12 hrs.

FINANCE BILL, 1982—Contd.

MR. SPEAKER: The House will now take up further consideration of the Finance Bill.

श्री सुलतानपुरी : श्री राम विलास पासवान । श्रीगणेश आप से ही कर देते हैं ।

श्री राम विलास पासवान (हाजीपुर) : आज तो बहुत हलका माहौल है । साढ़े तीन बजने के हैं । सोमवार के बूला लीजिएगा ।

अध्यक्ष महोदय : जटिया जी, आप ही करिए ।

श्री सत्यनारायण जटिया (उज्जैन) : फाइनेंस बिल के औचित्य के बारे में विचार करने का मुझे अवसर मिला है ।

15.13 hrs.

(SHRI GULSHER AHMED in the Chair).

देश की समस्याओं का हल करने के लिए अनेक प्रकार की नीतियां हम बनाते हैं । किन्तु देखने में आया है कि उन नीतियों का ठीक से क्रियान्वयन नहीं होता है । इसका नतीजा यह है कि अनेक समस्याएं

मुंह बाएँ बड़ी हैं । उन को हल करने की ओर कोई ध्यान नहीं दिया जा रहा है । मध्य प्रदेश में उज्जैन स्थित दो मिलें जिन में एक विनोद और विमल मिल है बन्द पड़ी है । आठ हजार से ज्यादा मजदूर बेकार हैं । नवम्बर महीने से ये बन्द पड़ी है । उन मजदूरों की समस्याओं को सुनने के लिए कोई तैयार नहीं है । मध्य प्रदेश की सरकार का मजदूर लोग ज्ञापन देने के लिए जाते हैं तो उनके ऊपर लाठी चार्ज किया जाता है, उनको आघात पहुँचाया जाता है और उसके अन्दर 29 लोग घायल हुए हैं । आम लोगों के लिए योजनाएँ बनाई जा रही हैं लेकिन उन से लोगों को कोई लाभ नहीं मिल पा रहा है । अनुसूचित जातियों, पिछड़ी जातियों, शरीब तबकों को इन योजनाओं से जो लाभ पहुँचना चाहिए नहीं पहुँच रहा है । लोगों तक इनका लाभ पहुँच इसके कारगर उपाएँ हम को करने होंगे । कागजों पर योजनाएँ बना कर उद्देश्यों को प्राप्त करने की जो हमारी मंशा है, इस तरह से वह कदाचित्त पूरी नहीं होगी । और इसलिए इन योजनाओं का पूरा करने के लिए सार्थक प्रयास करने चाहिए, और जो लोगों को आर्थिक सहायता सरकार देना चाहती है वह उन्हें मिले । आपने गया 20 सूत्री कार्यक्रम तैयार किया है, लेकिन उसका लाभ किसको मिल रहा है ? 20 सूत्री समितियाँ बनी हुई हैं वह गाँव गाँव में नए विवादों का जन्म दे रही हैं बजाएँ विवादों को सुलझाने के ।

जहाँ तक ला एण्ड आर्डर का प्रश्न है मुझे मध्य प्रदेश की वह घटना याद आती है जिसमें 9वीं क्लास में पढ़ने वाली एक हीर-जन बालिका का, जिसका नाम रक्रमणी देवी था, उस बालिका का अपहरण कर के कुछ लोग ले गए, उसके साथ बलात्कार हुआ, बाद में उसकी हत्या हुई और कूए

*The following Members also recorded their votes:

AYES: Sarvashree Bhola Raut, R. P. Gaekwad, Jainarayan Roat, Era Anbarasu and Birbal.

NOES: Sarvashree Ramavatar Shastri, Ram Vilas Paswan and M. Kandaswamy.