

[Sh. Nirmal Kanti Chatterjee]

is whether or not your collection shortfall is due to not only a compression or imports but also because of reduced rates of imports that have been introduced in the Budget. Do you have any information in this regard? Can you suggest to what extent collection shortfall is due to compression of imports and to what extent it is due to reduction of duties?

SHRI RAMESHWAR THAKUR: I am not able to give the exact figures now. But it is a fact that it is primarily due to reduction and compression in imports and partly due to the fact that a number of items have been given relaxation in reduction in rates during the last Budget. So, the cumulative effect is the reason for the total reduction in the customs duty.

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

15.53 hrs

STATUTORY RESOLUTION RE:
DISAPPROVAL OF THE MONOPOLIES
AND RESTRICTIVE TRADE PRACTICES
(AMENDMENT) ORDINANCE, 1991
AND
MONOPOLIE AND RESTRICTIVE
TRADE PRACTICES (AMENDMENT)
BILL

[English]

MR. CHAIRMAN: We shall now take up items Nos. 14 and 15 together, namely, Statutory Resolution regarding disapproval of the Monopolies and Restrictive Trade Practice (Amendment) Ordinance, 1991 and Monopolies and Restrictive Trade Practices (Amendment) Bill.

SHRI CHITTA BASU (Barasat): I beg to move:

"That this house disapproves of the Monopolies and Restrictive Trade Practice

(Amendment) Ordinance, 1991 (Ordinance No. 8 of 1991) promulgated by the President on the 27th September, 1991."

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI K. VIJAYA BHASKARA REDDY) Sir, I beg to move:

"That the Bill further to amend the Monopolies and Restrictive Trade Practices Act,

1969 and the Companies Act, 1956, be taken into consideration."

The MRTTP Act 1969 was enacted in 1969 and came into force on 1.6.1970 with the avowed objective of ensuring that the operation of the economic system does not result in concentration of economic power to the common detriment, for the control of monopolies and for the prohibition of monopolistic and restrictive trade practices. The Act was amended in 1982, 1984 and 1985 to bring within its scope unfair trade practices, and to bring the provisions of the Act in tune with modifications in the industrial licensing policies for achieving greater productivity. The basic philosophy as per the Act was never to inhibit industrial growth. It has been our experience that applications of large industrial houses (popularly known as MRTTP undertakings) for establishment of new undertakings, expansion of their activities, amalgamation, merger and takeover whenever found unacceptable, were generally rejected on the grounds valid for purposes of licensing and there were very few cases where such as application could be rejected on the grounds falling under the MRTTP Act. In the process, the projects initiated by the MRTTP companies were delayed in view of the time consuming procedures for prior approval of the Central Government. With the growing complexity of industrial sector and need for achieving competitive edge in the international market and economies of

scale for ensuring higher productivity, we found that the restrictions under the MRTTP Act on investment decisions of the corporate sector had outlived their utility. Our so called monopoly houses are pygmies in comparison with the giant conglomerates in USA and Western Europe having multinational operations. In the changing global scenerio it was considered necessary to remove restrictions and controls and expose our industry to international competitiveness. In conformity with the new Industrial Policy Statement (1991) the main thrust has now shifted to curb and regulate monopolistic, restrictive and unfair trade practices which are prejudicial to public interest. The exemption available to public sector companies, cooperative societies, etc. under Section 3 of the MRTTP Act has since been withdrawn and these undertakings have been brought at par with the private sector in the interest of consumer protection.

As per the new Industrial Policy, licensing has now been reserved for only 18 industries. The concept of prior approval for setting up new undertakings or for expansion of capacity have been given up as per the Ordinance. In line with the existing approach, the criteria for determining dominance is now restricted to the market share of 25 percent of the total goods produced, supplied, distributed or services rendered in the country. Dominance is now only relevant in the context of acquisition and transfer of shares, the result of which is either creation or increase of dominance.

We propose to strengthening the MRTTP Commission by enlarging the scope of enquiry before it. It is also proposed to empower the Commission to punish for contempt under the contempt of Courts Act 1971 and the provisions for punishment for contravention of the orders passed by the Commission and Central Government have been enhanced to act as a deterrent against erring offenders. Certain other changes are also proposed to be made to avoid interpretative defects and avoidable litigation.

The Bill seeks to replace the MRTTP

Amendment) Ordinance 1991 with some modifications. The Bill may now be considered by this august House and be passed.

16.00 hrs

MR. CHAIRMAN: There are amendments to this. Shri Agnihotri is absent.

Shri Bargava, are you moving?

[Translation]

Shri Girdhari Lal Bhargava: I beg to move: that the Bill be circulated for eliciting opinion thereon by 26 March 1992:

[English]

SHRICHITTABASU (Barasat): Madam, I rise to oppose the ordinance for various reasons. The reasons for this are varied and many but before I speak at length, I want to give expression to, in general terms, the reasons for which I have moved this motion.

This ordinance, in the form of a Bill will nullify the limited and a very feable attempt so far made by the Government in respect of reducing the concentration of wealth in the hands of a few. This is one of the reasons on which I rise to oppose this ordinance.

I also apprehend, Madam, that this ordinance, when passed into an Act, will also reduce the decisive role of the Public sector and bring it at par with the private sector in certain respects.

This Bill will also very harshly affect the very existence of the tiny and shall sector of our economy.

Lastly, it will also pose some threat to the cooperative sector of our economy.

These are in general the main grounds on which I want to disapprove this ordinance.

The ordinance seeks to remove the restrictions of the monopoly houses in relation to the commencement of the new under-

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takings; expansion of the existing capacity of production, amalgamation or merger of units, take over of units, appointment of Directors or registration of undertakings. The removal of all these restrictions which were there in the present MRTTP Act would bring a new era where *laissez faire* will be given effect to and there will be a complete market economy which has been advised by the International Monetary Fund and the World Bank.

The point which I want to draw home is this is contrary to the nationally accepted economic and industrial policy of our country. This is opposed to the Industrial policy Resolution of 1956. This is opposed to the very basic concept of developing core sector of our economy.

Madam, I think the hon. House will consider these aspects of the threat which emerges from this ordinance. Madam, you will not be surprised, when you will learn that the total asset of the twenty big industrial houses reached a colossal figure of 30,000 crores during the year 1988-89.

This means that the MRTTP Act which has something to arrest the concentration of the economic power in the hands of a few, has not proved very satisfactory. In spite of that unsatisfactory performance of the Act, there was some restriction on the Industrial houses and there was an intention of the Government at least on paper, that they are willing to arrest or reduce the concentration of economic power in the hands of a few.

Madam, the concentration of economic power leads to concentration of political power. This also leads to destabilisation of the country. This also leads to social unrest, social tension.

All these ills that our country is faced with today, are the result of undue concentration of economic power in the hands of a few, concentration of political power in the hands of a few and ultimately strengthening of bureaucracy of our country, that is, those

multinationals who are operating in our country.

Therefore, the concentration of economic power has got the disastrous impact on our country's interests. Whatever little attempt was made earlier in the enactment of the MRTTP Act and also halting implementation of the Act with these Amendments, they have been thrown into winds. I am very very happy when Shri Kumaramangalam made some remarks also on this aspect. He was on record that "in no way MRTTP Act has not been operational to keep the concentration of wealth down." I want to hear his view now. I do not know where has he gone.

So, it is better to understand what he said earlier. "In no way, the MRTTP Act has not been operational to keep the concentration of wealth down." That is why. It is being amended. It is being corroborated by you also that whatever small attempts you have made to reduce the concentration of economic power in the hands of few, now, you are lifting them by making the road clear for further concentration of economic power in the hands of a few. Naturally, it was expected that there will be an Amendment in this direction.

We wanted an Amendment for adding more teeth to the MRTTP Act so that the concentration can be arrested. This is what we want. You have come with an Amendment but in the reverse direction. Here you are going to remove all the restrictions which were existing in the Act itself. Therefore, it is counter-productive. It is regressive. It cannot find support from this House. Of course, there are people, who are supporting them, they may support them here also. Anyway, in this case, better rely on them. Do not rely on us.

The Bill seeks to remove the asset limit of Rs. 100 crores. This means, the real meaning of it is that if you remove the asset limit, what does it mean in reality? It means that all the monopoly houses are outside the ambit of the MRTTP Act. Therefore, you say that you are repealing the MRTTP Act as a

whole. Instead of doing that, you are removing a part of the Act and saying that the Commission will be there just merely to enquire into the unfair trade practices. These two components constitute the MRTTP Act; and what is emerging is that you are dismantling one part, that is the restriction, the restrictive part of the Act, the measure, the economic tool, the fiscal tool to prevent the concentration of the economic power in the hands of the few is being dismantled altogether. Of course, you are maintaining that part of the tool which would continue its activity for performance in respect of unfair trade practices. There is also a danger in that respect.

Let me come to the danger which I feel is likely to emerge for the public sector. I want to read out a statement from the editorial in the *Financial Express* of September 30 last. It reads as follows:

"It has taken several years for the Government to yield to this entirely legitimate demand."

What is their demand? Their demand is that the public sector and the private sector should be treated at par; that is the demand which has been raised by the monopoly houses, industrial houses; that has been their clamour; that has been their practice. The *Financial Express* commends that you have decided to remove them or bring them under same umbrella or at the same level, at par with the public sector. And therefore the *Financial Express* says that the Government has taken several years to yield to this entirely legislative demand that is to bring the public sector and the private sector at par. This is the danger which emanates from this Ordinance. It further goes on to say as follows:

"That announcement marks the successful end of one battle."

That means there is another phase of that. The *Financial Express* says, one phase of the battle is over; the industrial houses, the monopoly houses have won a battle and

another phase they will also have to fight and they expect that they will win it.

If you go by the IMF, the World Bank's advices, naturally, our industrial houses can very well say that their battle will be won by themselves.

Public sector and the private sector cannot be at par; let me make their philosophy clear; public sector is really public; it is accountable to this House. There is a Committee of Parliament on Public Undertakings. Through that Committee, you can probe, you can analyse, you can enquire into every shortfall if there is any.

Madam, not for a moment I say that there is no scope for the improvement of the functioning of the public sector undertakings. But when we speak about the philosophy behind the public sector, it is a public purpose. It is accountable to the public through the Parliament, and private is really private.

Once Shrimati Indira Gandhi, speaking from the other side said these words, that the private sector is private, nobody knows what it is, what it has up its sleeve.

SHRI MURLI DEORA (Bombay South):
What?

SHRI CHITTA BASU : Do not get angry. You really remain where you care. I do not want to throw private sector on the Table of the House. You are private. Continue to be private.

So, Shrimati Indira Gandhi was conscious about it. And I also concede that the private sector is really private and the Government has very good scope to problem into it. If you want, we can give a number of instances. If there are malpractices, if income-tax is not paid, if corporate tax is not paid and if the Government wants to know what is happening in the private sector, they can probe. But they remain private and now by bringing this amendment public and pri-

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vate sector are being put on par. This is a danger to the public sector as such.

However, there is provision in the original Act provision to inquire into the industrial houses. There is a provision. I agree. But with my 22 years experience I would request the hon. Minister to tell the House, to take the House into confidence, as to how many inquiries have been held so far, and whether any discussion in Parliament has taken place on the MRTTP Commission's report. No report has been discussed ever. And the Government does not know what action has been taken on this report of the Commission. As a matter of fact, it remained private and there was no serious probe into the shortfalls, into the defects, and the various allegations made against the private sector.

There is a provision, of course, in order to hoodwink the people. It has enhanced— You have decided in the Bill the penalty from Rs. 10,000 to Rs. 10 lakhs. Tell me what has been the actual purpose of this penal provision. How many industrialists have been penalised? How many have been put in jail? What has been the total fine imposed and what is the result thereof? Merely by increasing the penalty from Rs. 10,000 to Rs. 10 lakhs does not make any differences far as the industrial houses are concerned. They can pay Rs. 10,000 they can also pay Rs. 10 lakhs. Because by violating the law of the country they earn more. If they earn Rs. 10 crores, they can manage to pay Rs. 10 lakhs. Therefore, this MRTTP commission has been made ineffective by the political unwillingness of the Government during the last 22 years.

SHRI MURLIDEORA: Twenty two years ? For one year you were supporting the Government.

SHRI CHITTA BASU: You calculate it.

And then, there is a provision and I draw the attention of the Hon. Minister to it. Now, there is a provision. I draw the attention of the

Minister to notes on Clauses, where it says:

"Clauses 9 and 10 seek to amend sections 27 and 27 A respectively by providing that the said provisions will be applicable to any undertaking and that, besides on a reference received from the Central Government or a State Government, the Commission may inquire into any matter also upon a complaint from any trade association or consumers' association, etc. on the basis of its own knowledge or information."

Somewhere it is on the basis of an individual complaint also. (*Interruptions*). It includes the public sector, so far as these Clauses are concerned. Then, you may or those who are anti-private sector may lodge a complaint against Coal India. His objective is not to improve the functioning of the Coal India; his objective is mala fide; his objective is limited to denigrate the Coal India. Then, they may say your quality is bad. They may say such and such things. In private sector, this complaint may be managed by giving him some money, by either encouraging some complaint and also rewarding for some complaint. Will the public sector be able to do that? It is not possible for the public sector to manage this kind of nuisance by way of payment from its own funds. Naturally, this kind of frivolous complaint, this kind of *malafide* complaint will affect badly the public sector in our country and they may do this mischief. (*Interruptions*). I have mentioned only one case, that is, Coal India and ultimately it may also lead to Railways, it may lead to Banking, it may lead to Ports and Docks and ultimately all these public sectors can be covered under the plea of unfair trade practices and malign the public sector in our country. This is a dangerous things and this may lead ultimately to liquidation of the public sector itself. This is a grave danger which I want the hon. House to take into account while taking to decision in this matter. There is a need for the improvement of the public sector units. I do not disagree with anybody in this House. But, this amendment of the MRTTP Act is not the correct methodology and for that there are ways also.

From our side it has been suggested that participation of labour in the Management, democratisation of the management of the public sector units will give us satisfactory results in so far as the functioning of the public sector is concerned. I hope the Government should have taken recourse to that suggestion instead of bringing this kind of draconian Bill which provides a muscle to the industrial houses and monopoly houses.

On this occasion, I also quote FICCI Chairman. He says :

"That ordinance will discipline the Public sector..."

That fellow is there to discipline the Public Sector.

SHRI K. VJAYA BHASKARA REDDY: I believe in it.

SHRI CHITTA BASU: He believe in this statement. (Interruptions) . Let me read out the complete text.

SHRI MURLI DEORA: He is even believing in disciplining you, forget the public sector.

SHRI CHITTA BASU: Let us be on record of the total text.

SHRI MURLI DEORA: I believe in discipline.

SHRI CHITTA BASU: Oh, you believe in discipline and you believe in disciplining me!

SHRIMURLI DEORA: Everyone.

SHRI CHITTA BASU: Including you. I am a disciplined soldier.

Any way, do not waste my time. The Ordinance will discipline the public sector undertakings and bring them at par with the private sector..(Interruptions) . You do not agree with the statement but your Bill says so. I am explaining my position, you explain when

you are in a position to explain yourself. Therefore, what I say is that this is the FICCI one and I find a reflection of the FICCI opinion in this Ordinance.

SHRI MURLI DEORA: Why not?

SHRI CHITTA BASU: This is my objection when you say let us go by the advice of the FICCI , let us go by the advice of the World Bank, let us go by the advice of the IMF, or whoever you want to choose. On the other hand, I want that the country, the nation, the working class and the people of India should choose a different path. Therefore, there might be a fundamental difference and I should say what I feel and You should say what you feel.

16.27 hrs.

[SHRI P.M. SAYEED- *in the Chair*]

Therefore, I oppose this Ordinance and I want that this should not be made a political issue, a party issue. It is in the interest of the nation as a whole, in the interest of maintaining and pursuing of the nationally accepted economic and industrial policy of the country. The Government and the Minister should find it convenient or advisable to withdraw the Bill.

Therefore, I move this Statutory Resolution disapproving of this Ordinance.

Apart from this, there are other reasons also but since the time is not available, I am not going into those.

MR. CHAIRMAN: Motions moved.

"That this House disapproves of the Monopolies and Restrictive Trade Practices (Amendment) Ordinance, 1991 (Ordinance No.8 of 1991) promulgated by the President on the 27th September, 1991."

"That the Bill further to amend the Monopolies and Restrictive Trade Practices Act, 1969 and the Compa-

nies Act, 1956, be taken into consideration."

SHRI MURLI DEORA: Sir, I rise to support the MRTP (Amendment) Bill moved by the hon. Minister.

This is the Government's commitment that it made in the new industrial policy. I read section 4 (d)..(Interruptions) .

SHRI NIRMAL KANTI CHATTERJEE: Even without that also, the Government was always committed to MRTP companies.

SHRI MURLI DEORA: Section 4 (d) of the New Industrial Policy says: "Asset limit of MRTP companies to be abolished." This is a step that the Government has taken in the right direction.

I congratulate the Government for bringing forward this Bill. I do not think the Bill has been brought too late.

MR. CHAIRMAN (SHRI P.M. SAYEED): You can continue tomorrow, Mr. Deora. Now the hon. Minister of Home will make a statement.

16.28 hrs

STATEMENTS BY MINISTER

(i) **Reported scuffle on 11.12.91 between a journalist and a police officer and the arrest of some Tibetan girls in front of Chinese Embassy in New Delhi on 15.12.91.**

THE MINISTER OF HOME AFFAIRS (SHRI S.B.CHAVAN): There was information that the Tibetans in the Capital would plan to organise demonstrations/processions and cause disruption to the Chinese Premier's visit between 11 December to 16th December, 1991. Arrangements had been made by Delhi Police to ensure that the visit passed off peacefully.

2. Several demonstrations were, however, held by the Tibetans, some of which turned violent, and the police had to make a number of preventive arrests against persons resisting to comply with the directions given by the police officers in the discharge of their duties. There are two specific events to which my attention has been drawn and I wish to apprise the Hon'ble Members of this august House about the facts.

3. The first event relates to the reported assault on a journalist during the course of Tibetan demonstrators at Majnu Ka Tila, North Delhi on 11th December, 1991. The facts ascertained from the Delhi Police are that after the teargassing of a crowd of violent Tibetan demonstrators, when arrests were being made, the Additional Commissioner of Police, Northern Range, was running to apprehend some Tibetans who were also running. He caught hold of a person wearing a blue jacket from the back of his jacket. Several of the Tibetans were also wearing blue jackets. This person turned round and the police officer noticed that he had a handkerchief over his face. This was probably to protect himself from the teargas. At this stage there was a scuffle. The police officer could not readily identify the man because of the reasons given above. The person said his name was Shri Srivastav and that he was a journalist. At this stage he was allowed to proceed by the police officer. Shri Srivastav has thereafter alleged that he was slapped on his face and hit back by someone. The police have refuted this allegation.

4. The second event is the reported misbehaviour by the Delhi Police with a Tibetan girl who was detained with certain other demonstrators near the Chinese Embassy on 15th December, 1991. The facts as ascertained from the Delhi Police are that at about 3.00 p.m. on 15.12.91, a group of Tibetans, comprising largely women, got off from a vehicle near the Indonesian Embassy, having come from Teen Murti side. They tried to rush towards the Chinese Embassy shouting slogans. They were detained at the barricade about 50 meters away from the Chinese Embassy. They