

12.27 hours

**STATEMENTS BY MEMBER RE.
PURCHASE OF SHARES OF
BALMER LAWRIE AND CO.**

SHRI SHYAMNANDAN MISHRA (Begusarai): The Government's clarifications fail to remove impression of contradictions and inconsistencies in its statements on the purchase of shares of Balmer Lawrie & Co., thus reinforcing the doubts about the fairness of the transaction

For instance, I had pointed out:

"According to Minister's statement on August 4, 1972, Duncans had offered to buy IBP's holding of Balmer Lawrie for Rs 160 a share. However, on 18th August, 1972, Minister stated that the Government would not 'surrender to this attempt at depressing the share market on the part of Goenka and Duncan Brothers to see that we sold our shares to them at a very unfavourable price'. These two claims are contradictory".

Now the Government says

"If the share market had not been depressed there would have been a corresponding lesser inducement to sell Balmer Lawrie shares to Duncan Brothers at the price of Rs 160 a share at which price Duncans had offered to buy Balmer Lawrie shares from IBP"

Where was the question of inducement at all when the Government, according to the Minister's own statement, was bent on acquiring control in national interest and not selling its shares? And secondly, if the market was depressed it stands to reason that Government should have taken advantage of the low prices and bought more shares to acquire effective control over Balmer Lawrie

Granting the Government's view that it was absolutely necessary to take over the concern the complementarity of Duncans offering a high price and then depressing market to induce Government to sell, does not arise at all

The Government's clarification repeats that the price was determined by an "independent authority" It is the Ministry which is responsible to this Parliament and not any independent authority. The Ministry is trying to shove off its responsibility in accepting this high price to some other authority. What is the identity of this authority and why it adopted peculiar and unique principles and criteria in this particular case? Why should the Ministry fight shy of owning up the responsibility for paying this price?

The Ministry's clarification on payment of two different prices for the same shares for two concerns, again, does not stand to either logic or reason. If, as the clarification says, Alex Lawrie were so much attached to Duncan as to insist the Government should buy the shares held by both simultaneously, it is reasonable to expect Alex Lawrie also to say that Government pay the same price to both. The fact that Alex Lawrie got a lesser price can conceivably be explained by one of two reasons. (1) there was some arrangement by which between Alex Lawrie and Duncan there was a sharing of the higher prices that the Duncan got or (2) the Government did not apply the same method and pressure on Duncans as they did on Alex Lawrie to get the shares at the lower of the two prices. If the latter is the case, what reasons prevented the Government from applying the same pressures on Duncans as on Alex Lawrie to get the shares at Rs 85 (even which was much higher than the market price). Besides the fact of the two prices paid does not square with the Government's claim that its "independent authorities" had fixed Rs 95 as the intrinsic value. If intrinsic value is, Rs 95 why not the same yard stick be applied to the Alex Lawrie holdings also? Why should fairness and justice granted to one be denied to another?

Fourthly, I had pointed out:

"Government has not answered the charge that after Goenka had wrapped the deal he manipulated the share market to raise the price to Rs 95 the moment deal was completed

Shri Shyamanandan Mishra :

the Government should have issued an ordinance to take over the company to prevent Goenka from manipulating the share market”.

The Government says that the shares were purchased at intrinsic value. It adds:

“The question of issuing any ordinance to take over its management did not arise as ever since April, 1970, a minimum of 2 Government and/or IBP nominees were functioning as Directors on the Board of Balmer Lawrie. It is submitted that the need for issuing an Ordinance ‘the moment deal was completed’ could not possibly have arisen as the completion of the deal automatically resulted in the IBP taking over the control of the Balmer Lawrie Group”.

When I used the word “wrapped” I meant by it that the negotiations were completed. This was done much before June 7 when the company formally passed into government possession. That earlier, in Government’s own clarification, it is stated that the price of the share rose in April, May and June and then came down shows how this provided an opportunity to Duncans to manipulate the share market during the interval.

Fifthly, the Government has given the plea that since its two directors were there on the Board of Balmer Lawrie there was no need to take over immediately. But the presence of two Government nominees is not the Government’s conception of taking over of a company as we understand it.

Lastly, the Government’s stress on the intrinsic worth is in total contradiction to Government’s policy. Government even amended the Constitution to enable it to pay as “amount” for take over of private property in contradistinction to compensation. Why then this plea of “intrinsic worth”? Is there a reversal of policy? In how many cases has the Government paid or propose to pay “intrinsic value” for property taken over in public interest?

SHRI JYOTIRMOY BOSU (Diamond Harbour): On a point of order I had written a letter to the Hon. Minister and the reply that has been given intensifies the suspicion that the deal is a shady deal. He clearly evaded giving us the profit and loss account for 1971 because the company had lost Rs. 25 lakhs. Secondly, the LIC and IBP holding a controlling interest had the preemptive right of take-over . . .

MR. SPEAKER: This is a statement under direction 115. This is not a debate. Do not take advantage of every opportunity to make an observation. The Hon. Member, Shri Shyamanandan Mishra, had certain doubts about the correctness of the statement made by the hon. Minister and he has made a statement on it, to which the hon. Minister will reply. This is between the hon. member and the hon. Minister.

But you are introducing something which is extraneous to it.

SHRI JYOTIRMOY BOSU: Rule 376. Point of order.

MR. SPEAKER: No, please.

THE MINISTER OF LAW AND JUSTICE AND PETROLEUM AND CHEMICALS (SHRI H. R. GOKHLE): I had thought that during the last half-an-hour discussion which in fact lasted an hour, all the points made by the Hon’ble Members had been adequately answered. Subsequently, my colleague Shri K. R. Ganesh, while speaking on the Supplementary Grants, has further and fully clarified the position.

On the very first point made by Hon’ble Member Shri Mishra, it is a fact that Duncans offered to buy Balmer Lawrie shares held by the IBP at Rs. 160 per share. Obviously, the larger the gap between the market quotation of a share and the price offered for their purchase, the larger would be the inducement for the holder of the shares to sell them. However, we were not deflected from our purpose by this attractive offer of Duncan Brothers. We wanted to buy these shares to strengthen the public sector. There is thus no contradiction or inconsistency in my earlier statements.

The crux of the matter really is whether the low market quotation of these shares could have been taken advantage of for gaining control over Balmer Lawrie group. Although in my earlier statement I had explained this matter in clear terms it appears that the Hon'ble Member did not fully appreciate the situation. I therefore repeat the facts. Even if it is assumed for the sake of argument that the IBP could buy all of the 28,474 shares held by some 953 shareholders, such a purchase would have still failed to provide clear control over the Balmer Lawrie group. All that IBP would have succeeded in achieving would have been the enlargement of its total holding in Balmer Lawrie from 30.1 per cent to 49.86 per cent and this would not have given it a controlling position. It is not as if the possibility of buying shares from the market at the then prevailing low prices did not occur to the IBP and the Government. This was carefully considered, but had to be rejected, first because if the IBP had entered the market to purchase these shares their prices would have undoubtedly shot up. This almost invariably happens for any shares. The moment a big buyer shows interest in enlarging his holdings of a particular company, the market quotation of its shares always goes up. It is, therefore, quite certain that IBP would have had to pay a much higher price for these shares than that at which it finally acquired control by purchasing them from Duncan Brothers and Alex Lawrie. Second, and the over-riding consideration was that by the adoption of this course, IBP would have only succeeded in increasing its investment in Balmer Lawrie without gaining even 50 per cent control. In fact it could never gain control as long as it did not purchase the shareholding from Duncan Brothers and/or Alex Lawrie. Of course, it was futile to expect that IBP would have succeeded in buying all of the 28,474 shares from the public. This should be clear from the fact that in the first six months of 1972, i.e. from 1st January to 30th June, 1972, only 1,019 shares of Balmer Lawrie changed hands. Despite the fact that the price from early April was Rs. 94 per share and remained at that level right upto

the first few days of June 1972, very few share-holders took advantage of the increased price and only 148 shares changed hands during this period.

When earlier I had made a reference to the determination of the price by independent authorities there was no suggestion that we did not exercise any check in the matter on our part. I had said that the valuation of the shares was not done by my Ministry alone but by other agencies also independently. Only thereafter was the final view taken in the matter. Independent valuation was made by the Indian Oil Corporation, the Department of Company Affairs, the Department of Economic Affairs and by the Unit Trust of India. There was also nothing peculiar or unique in the methods and principles that were adopted in this particular case for making a valuation of the shares. The same agencies made the valuation of the IBP shares and on exactly the same principles when the Indian Oil Corporation bought the IBP shares from Steel Brothers of U.K. This procedure has been followed in several other cases too. Briefly, the valuation has been made, first, on the basis of the written-down book-value of the assets. The book-value of the assets is very much lower than their present market value. Secondly, on the basis of the market quotation of the shares, I had already stated earlier that in the valuation made in this case the higher price of Rs. 94 then obtaining was ignored and only the lower price of Rs. 68 was taken. The third factor is the value of the share calculated on the average earning capacity of the company in the last 3 years, after taking note of unusual features, if any. It is the average of these three factors that determined the price that we agreed to pay.

When I had quoted the present net worth of the assets of Balmer Lawrie, it was essentially to illustrate that by purchasing the shares at the negotiated price IBP was able to strike a good deal. There was no suggestion by me that the present net worth of the assets had been adopted for working out the price; I had made it clear that for working out the price

SHRI H. R. GOKHALE:

of the shares only the written-down book value of the assets had been adopted.

Much is again being sought to be made of the price differential at which the Balmer Lawrie shares were purchased from Duncan Brothers and from Alex Lawrie. I would like the Hon'ble Members to appreciate that we were dealing with two parties with two altogether different motivations, one was interested in gaining absolute control over the Balmer Lawrie group, while the other only wanted to disinvest. It is because of this fact that the negotiations with Alex Lawrie to bring down the price succeeded and eventually they agreed to sell their share-holding at Rs. 85 per share.

The Hon'ble Member has stated that the Government should have issued an Ordinance as soon as the deal was "wrapped", by which he means that the negotiations were completed, so that the market price of these shares could not be manipulated. It appears to me that the main point I had made had been missed. Even before the negotiations were completed, the market quotation was already Rs. 54 per share. But as I have repeatedly clarified, this increase in the market quotation was ignored and only the lower price of Rs. 68 per share was taken into account for assessing the valuation of these shares. Nothing, therefore, was to be gained by issuing an Ordinance at that stage. In any case, the objective was to acquire control on the Balmer Lawrie Company which could and was achieved by IBP acquiring the shares of Duncan Brothers & Alex Lawrie. IBP held 30 per cent shares and other private shareholders held some 19 per cent of the shares. There was no need for Government to take over these shares.

SHRI JYOTIRMOY BOSU: What about your pre-emptive rights?

SHRI SHYAMANANDAN MISHRA: None of my points, I must confess, have been met. I must also confess to a great sense of disappointment as it has all been a waste of effort. Doubts necessarily persist and we cannot resist the conclusion that this

deal has not been in public interest. The mystery has further deepened and we would request you to provide for a discussion during the next session.

SHRI JYOTIRMOY BOSU: May I request you to refer this matter to the Public Accounts Committee? Let the whole thing be examined by the Public Accounts Committee.

MR. SPEAKER: You are mistaken. I cannot send the matter. He made a statement and the Minister made a statement in reply. They are before the House. There is no other procedure.

SHRI JYOTIRMOY BOSU: The whole deal is a shady deal. It is a serious matter. Money has been given away by this Government to the monopolies. Kindly send it to the Public Accounts Committee.

MR. SPEAKER: How can I send it?

SHRI SHYAMANANDAN MISHRA: Would the Minister be prepared to satisfy the public and remove the suspicion from their minds by referring it to the Public Accounts Committee?

SHRI VIKRAM MAHAJAN (Kangra): Our friends do not know the procedure. The P.A.C. can *suo motu* take notice of any action. It is not necessary for the Speaker or the Minister. You are unnecessarily creating an issue and trying to get publicity.

SHRI JYOTIRMOY BOSU: We want a probe into the matter.

SHRI H. N. MUKHERJEE (Calcutta—North East): We have heard both sides. They are in the possession of the House. After having heard the statement, many misgivings remain which warrant this request to you that this matter be referred to the Public Accounts Committee.

MR. SPEAKER: I have no power under the rules. This matter came under direction 115. Do not try to force anything on me.

SHRI SHYAMANANDAN MISHRA: We seek your protection. There is suspicion in our minds that Rs. 67

lakhs have been gifted away to a particular party, and the public exchequer has been robbed of this money.

MR. SPEAKER: Under direction 115, there is nothing else. Both the statements are before the House.

SHRI H. N. MUKERJEE: Some of us in the House feel perturbed that there are so many lacunae which are not explained. That is why we suggest that the Comptroller and Auditor General may look into it.

MR. SPEAKER: I have no power under Direction No. 115 to do it.

MR. R. S. PANDEY (Rajnandgaon): You have got the power with the consent of the House.

SHRI H. N. MUKERJEE: You may have the power under Direction No. 115 but there are so many other rules.

SHRI PILOO MODY (Godhra): I move that the matter be referred to the PAC.

MR. SPEAKER: It is not like that. You cannot just get up and say that you move, unless I allow it.

SHRI JYOTIRMOY BOSU: If Mr. Stephen can move a privilege motion *suo motu* and it can be included in the List of Business, when it is a question of squandering away of people's money, why not allow this? We would not allow this House to function unless you safeguard the people's interest. . . .

MR. SPEAKER: If this House is purely at the mercy of one gentleman to function, God help.

SHRI SHYAMNANDAN MISHRA: My only submission to you is to give us guidance. . . .

MR. SPEAKER: I allowed this under Direction 115. You stated your facts and the Minister stated his facts. There is nothing else mentioned in the Direction.

SHRI JYOTIRMOY BOSU: Arising out of what has been said. . . .

MR. SPEAKER: You can give it in writing.

SHRI JYOTIRMOY BOSU: I had moved that half-hour discussion and some replies were given to that discussion. From that, this statement under Direction No. 115 has taken its birth. His reply has intensified our doubts, instead of clearing them.

MR. SPEAKER: If any regular motion comes in writing, I will consider it on its merits. You cannot move a motion spontaneously without giving notice.

SHRI JYOTIRMOY BOSU: I will give it in writing in five minutes.

MR. SPEAKER: I will have to study it.

SHRI PILOO MODY: You allow all these things according to the procedure. We also want to function according to the procedure. The procedure lays down that somebody can ask some questions and thereafter it is for the Government to reply to those questions. If the replies do not meet the questions that have been asked, who will protect us and help us to get the correct replies? Unless you tell the minister that this is what the hon. member asked for and he has not replied specifically to this or that point, unless you can regulate it, there is nobody to help us.

MR. SPEAKER: I am not sitting as a judge to decide whether Mr. Mishra is right or the minister is right. I have allowed it under a specific direction.

SHRI PILOO MODY: It is not a question of being right or wrong. It is a matter of the question being answered. He has asked a specific questions. He asked, the market value was so-and-so and you got it at Rs. 30 more. What is the explanation? He gave on the previous occasion some cock-and-bull reasons, which we have disapproved. Now he has no answer. Let him say "I have no answer".

MR. SPEAKER: If the answer to a question is not correct, the Member can bring it up under rule 115. Then the Minister replies. Even after that reply if the Member is not satisfied, then what is the next step? At least, I have not been able to lay my hands on it.

SHRI PILOO MODY: You must use your discretion, because the Minister has not replied at all to the question raised.

SHRI SHYAMNANDAN MISHRA: The basic question is whether the Lok Sabha is going to exercise financial control over the transaction.

MR. SPEAKER: We have to be reasonable. If you are not satisfied with the reply under rule 115, you have to come under some other rule. Off-hand I have no idea under what rule you can come again.

SHRI JYOTIRMOY BOSU: Rule 342.

MR. SPEAKER: That does not apply here. Some hon. Members are asking me to sit in judgement, which I do not accept.

श्री हुकम चन्द्र कछवाय (मेरु) : अध्यक्ष महोदय, मेरा एक निवेदन सुन लीजिए । 115 में यहां एक प्रश्न उठाया गया । उसमें जिन मामलों को उठाया गया सदन के भ्रंदर उन बातों का ठीक प्रकार से उत्तर सरकार की तरफ से नहीं आया । तो हम आपसे निवेदन करते हैं कि आप मंत्री महोदय से ठीक ठीक उत्तर दिलवाएं .

अध्यक्ष महोदय : एक दफा तो उत्तर दिलवा दिया . . .

श्री हुकम चन्द्र कछवाय : जिन मद्दों को यहां उठाया गया उन मद्दों पर कोई उत्तर नहीं दिया गया और अध्यक्ष महोदय, जब सरकार की तरफ से इस तरह से ठीक उत्तर नहीं दिये जाते हैं तो वही मूल कारण है जिस से सदन में उत्तेजना बढ़ती है . . . (ब्यवधान) जिन बातों को उठाया गया है उनका उत्तर तो आया ही नहीं है। . . . (ब्यवधान) आप हमारी रक्षा नहीं करेंगे तो हम किस के पास जाएंगे ?

अध्यक्ष महोदय : मेरे पास जिस का अख्तियार होगा उसी के लिए तो आ सकते हैं ?

MR. DEPUTY-SPEAKER: Your given in writing a motion.

MR. SPEAKER: I have to study it before I give my ruling on that.

श्री हुकम चंद्र कछवाय : आज इस मति-वेशन का अखिरी दिन है । अब इस के दो महीने बाद हम बैठेंगे, तो आप कब इसका निर्णय देंगे ?

श्री राम सहाय पांडे : आप इनसे पूछिए कि मामला क्या है ?

अध्यक्ष महोदय : मामला यह है कि एक क्वेश्चन के जवाब से उनकी तसल्ली नहीं हुई । हमने उस पर उन को इजाजत दी, उन्होंने एक बयान दिया, एक बयान इधर से आया । । अब वह कहते हैं मुझे कि मैं फैंसला दू । मैं कोई जज थोड़े ही बैठा हूँ यहां फैंसला देने के लिए । मैं तो प्रोसीजर से रेग्युलेट करता हूँ ।

श्री राम सहाय पांडे : उनको पता ही नहीं है कि मामला क्या है ।

MR. SPEAKER: We will have to consider whether we will follow this practice of referring it to the PAC every time a matter like this is raised. Once this procedure is followed, it will be treated as a precedent, and matters of this type are bound to be raised again. I will have to see how far it is desirable.

SHRI JYOTIRMOY BOSU: Kindly help us We are more than convinced that government have failed to convince us that the payment of Rs. 67 lakhs to Shri R. P. Goenka.(interruptions).

SHRI VIKRAM MAHAJAN: Sir, these remarks should be expunged because they are casting aspersions. . . (interruptions).

MR. SPEAKER: If you are not satisfied and if you think that the Government are in the wrong, the proper method after this should be to come with a substantive motion against the Government. Otherwise, there is no use making any such allegations, bringing such drastic allegations. After this, the consequence follows that you come with a substantive motion. . . .

SHRI JYOTIRMOY BOSU: Where is the time now? Kindly extend the session by one more day.

MR. SPEAKER: After I have received it, I will have to see how far it will be desirable and how far it is within my discretion to allow the motion of reference to P.A.C.

SHRI JYOTIRMOY BOSU: With all that money, they are proceeding to do more mischief (*Interruptions*).

MR. SPEAKER: Order, order. Kindly sit down.

श्री हुकम चंद कछवाय : आप निर्णय कब तक सुनायेंगे अध्यक्ष महोदय, आज सुना देंगे ?

अध्यक्ष महोदय : नहीं, आज नहीं ।

SHRI JYOTIRMOY BOSU: We will be failing in our duty

MR. SPEAKER: You should not go on interrupting like this. Let me know how far I should go on tolerating it. Please sit down. The proper thing is to bring a motion. . . .

SHRI JYOTIRMOY BOSU: Where is the time?

MR. SPEAKER: Where was the time when we came to this week.

SHRI JYOTIRMOY BOSU: Are you extending the session by one more day? I have given a motion . . .

MR. SPEAKER: I will see the motion; I will examine it.

12.58 hrs.

MOTION RE. FINAL REPORT OF DIRECT TAXES ENQUIRY COMMITTEE

MR. SPEAKER: The House will now take up further consideration of the motion on the Final Report of the Direct Taxes Enquiry Committee. Shri Surendra Mohanty.

SHRI SURENDRA MOHANTY (Kendrapara): Mr. Speaker, Sir, it will be practically impossible to offer any meaningful comment or criticism on the recommendations of the Direct Taxes Enquiry Commit-

tee Report. The recommendations run into more than 300 in number. Therefore, I propose to confine myself to the interim report which the Direct Taxes Enquiry Committee submitted to the Government as late as in 1970. . . .

MR. SPEAKER: Shall we adjourn for lunch now?

SEVERAL HON. MEMBERS: Yes.

MR. SPEAKER: So we adjourn for lunch to re-assemble again at 2 O' Clock.

13 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock

The Lok Sabha reassembled after Lunch at Four Minutes past Fourteen of the Clock.

[MR. DEPUTY SPEAKER in the Chair]

MOTION RE. FINAL REPORT OF DIRECT TAXES ENQUIRY COMMITTEE—contd.

SHRI SURENDRA MOHANTY (Kendrapara): Mr. Deputy-Speaker, Sir, as I was saying before the House rose for Lunch, it will be unrealistic to dwell upon 300 or so of the recommendations of the Direct Taxes Enquiry Committee within the few minutes at my disposal. Therefore, I will mainly confine my remarks to the Interim Report of the Direct Taxes Enquiry Committee which has recommended, *inter alia*, (a) demonetisation, (b) ceiling on cash holdings, and (c) acquisition of immovable property, which comes under understatement of purchase considerations. The Government have implemented the last mentioned recommendation namely, acquisition of immovable property. But, as regards demonetisation and ceiling on cash holdings, the Government has deserved the full-throated cheers of the black-money sector for having scotched for all time to come the question of demonetisation of black money. The reasons are very obvious. Even the Direct Taxes Enquiry Committee report has stated at page 9 and has expressed scepticism about demonetisation in the following words: