

[Shri L. N. Mishra]

Parliament in the Committee that the agitation be withdrawn assuring that in their deliberations they will give the highest consideration to the demand and would try to get all the legitimate grievances of the railway workers redressed I join in this appeal to all the people of the area and the staff of the Sholapur Division to withdraw the agitation immediately because to continue it further will seriously affect the economy of the country

11-33 hrs.

STATEMENT BY MEMBER RE  
MONOPOLY OF EMI/HMV IN  
GRAMOPHONE RECORDS

अध्यक्ष महोदय श्री मधु लिमये ।

श्री मधु लिमये (बाका) मझे प्राप्त  
इसको पढ़ने का मौका दीजिये । नियमों के  
अध्यक्ष महोदय हाउस के सामने  
सब आ जायगा ।

श्री मधु लिमये : एक प्रार्थना गृनिये ।  
नियमों के अनुसार डायरेक्शन 115 के  
अन्दर इसको पढ़ने का आदेश है । मैं आपकी  
बात मानने के लिए तैयार हूँ लेकिन, मरी  
एक प्रार्थना है कि इसको आप प्रिमीडेट न  
बनाइयेगा । अगर प्रिमीडेट बनाना चाहते  
हैं तो मुझे पढ़ना पड़ेगा क्योंकि लिखा हुआ  
है नियमों में कि पढ़ा जायगा ।

अध्यक्ष महोदय : पढ़ना चाहते हैं तो  
पढ़िये । लेकिन मैं तो कन्वीनियंस के स्थान  
में बड़ा हूँ ।

श्री मधु लिमये : मैं आपकी इच्छा का  
प्रारंभ करता हूँ । लेकिन इसको आप प्रिमीडेट  
न बनाइयेगा ।

“मैं ग्रामोफोन रिकार्डों में ई०एम०आई०/  
एच०एम० बी० के एकाधिकार के तार में  
अन्ताराकित प्रश्न संख्या 1580 के । प्रश्न  
1973 को दिए गए उत्तर में औद्योगिक  
विकास मंत्रालय में उपमन्त्री द्वारा दो गई  
कतिपय जानकारी के बारे में अपना वक्तव्य  
समाप्त पत्र पर रख रहा हूँ ।”

Statement

In Unstarred Question No. 1586 on  
the monopolistic practices of EMI/  
HMV (Gramophone Records Company)  
answered on 1st August, 1973, I asked:

“(c) Whether the Company is  
using its monopoly position to exploit  
the artistes and dealers.” The Minis-  
ter's answer was

“(c) Government have no in-  
formation”

When I drew your attention to  
this misleading and incorrect reply,  
the Minister instead of owing his  
mistake offered an elaborate ex-  
planation which really made matters  
worse and proved to the hilt my  
charge that he is misleading the  
House

It was as far back as 28th November,  
1970 that on the receipt of a com-  
plaint by HMV dealers I had written  
a long letter to the then Minister of  
Industrial Development drawing his  
attention to clauses in the HMV's  
contracts with their dealers which  
were violative of the Monopolies and  
Restrictive Trade Practices Act;

The letter, after asking the Govern-  
ment to accept the principle of sup-  
porting Swadehi, said:

“(1) the Gramophone Company  
of India, company known as HMV,  
is a dominant undertaking controll-  
ing production, supply and distri-  
bution of more than 90 per cent  
gramophone records manufactured  
in India ;

(2) This Company has a net work  
of 1,000 distributors and dealers.  
This is an exclusive channel of  
distribution of which no use can be  
made by any new company. These  
dealers are required to give an  
undertaking in the following form:

“We shall not, unless with the  
written consent of the Company  
offer for sale, sell or assist in sell-  
ing or otherwise dealing in either

directly or indirectly goods or articles which in any way compete the goods supplied to us by your Company.'

This amounts to a restrictive trade practice within the meaning of Section 2(0) of the said Act.

(3) The Monopolies and Trade Practices Act has said that certain types of agreements amounting to restrictive trade practices should be filed with the Commission. The agreements which this Company makes with the dealers as well as the artistes come under this category;

(4) The total production of gramophone records is around 3 million per annum of which the HMV controls 90 per cent as stated above. The potential of the Indian market and foreign markets is much larger. However, because of the absence of real competition this potential has not been fully exploited;

(5) One inhibiting factor is the high price of gramophone records which this Company has been able to sustain because there are no other manufacturers in the field who can hope to compete with this Company on a fair basis;

(6) Artistes and musicians are required by this Company to enter into long term contracts. In the duration of these contracts these artistes cannot give their music to any other company. This, therefore, constitutes a classic case of monopoly in action;

(7) Being a foreign company, it is sending out large amounts of profits, royalties, etc. in the form of foreign exchange;

(8) This Company also manufactures gramophone equipment and record-players. Having complete control over the market, it also markets products manufactured by small-

scale and ancillary industries. The terms on which these products are marketed are naturally unfavourable to small producers; and

(9) *This foreign company, I understand, has terminated the dealership of several dealers because these dealers secured dealership of another new company which has entered the field.*

If no action is taken by the Government to put down these activities firmly, to encourage new indigenous units, to protect the interests of the consumers, the artiste and the small producers, it will only provide another evidence of the growing gap between the Government's pious professions and its actual practice."

The then Minister of Industrial Development, Mr. Dinesh Singh while generally agreeing with the principles enunciated by me about Swadeshi and indigenous industry assured me by his letter of 1st December, 1970 that he was having the matter examined.

I followed this up by the Unstarred Q No. 3791 on 8th December, 1970 in answer to which the Minister promised to collect the information about the HMV practices and lay it on the Table of the Lok Sabha.

But this information was never laid before Parliament

Now when I take up the matter again in this Lok Sabha, the Minister states that "the Government have no information". Is this a truthful reply?

THE MINISTER OF INDUSTRIAL DEVELOPMENT AND SCIENCE AND TECHNOLOGY (SHRI C. SUBRAMANIAM). Mr Speaker, Sir, I beg to lay a statement in reply thereto.

#### *Statement*

1. Unstarred Question No. 1586 answered in the Lok Sabha on 1st August, 1973, related to the alleged dominant position in the production

[Shri C. Subramaniam]

and marketing of Gramophone Records by EMI/HMV and the alleged exploitation of artistes and dealers by the Gramophone Company of India Limited by virtue of its monopoly position. In the reply to the Question, it was stated that the said Company is registered as a dominant undertaking under the MRTP Act and is the only unit borne on the list of the DGTD reporting production of Gramophone Records. As regards part (c) relating to the alleged exploitation of artistes and dealers by the Company, it was stated in reply that Government had no information.

2. In his letter, dated 28th November, 1970, addressed to the then Minister of Industrial Development, Shri Madhu Limaye had *inter alia* stated that "artistes and musicians are required by this Company to enter into long-term contracts. In the duration of these contracts, these artistes cannot give their music to any other Company. This therefore, constitutes a classic case of monopoly in action". The matter was gone into and the various points raised were examined. Some points now reiterated in the statement of the Hon'ble Member had already been answered.

3. It may be stated that manufacture of Gramophone Records is not a Scheduled Industry under the Industries (Development and Regulation) Act, 1951.

4. M/s. Gramophone Company of India was registered as a dominant undertaking under the MRTP Act. It was reported to have been entering into individual contracts with its numerous clients—artistes and producers of musical performances. The terms of contracts substantially vary from artist to artist depending upon the relative status of the artist, market acceptability and other relevant considerations. The practice appears to have been followed by another Gramophone Company as well.

5. The Ministry of Information and Broadcasting who were specifically

consulted had no comments to offer in the matter. This Ministry had also not received complaints from dealers or artistes, alleging unfair practices on the part of the Company.

6. Matters relating to production figures had already been clarified in the reply to the Untarred Question No 1586 of the current session. It may be added that one small scale unit, viz. M/s. Polydor of India is in production and two more viz. M/s. Watmir Industries and M/s. Jyothi Records Manufacturing Company, both of Bombay have been approved for manufacture. The aim has been to reduce the dominance of the Gramophone Company of India in this field. The total capacity of these new units is expected to be of the order of 60 lakh pieces per annum.

7 It may be recalled that a similarly worded question on the same subject had been raised by the same Hon'ble Member in the 12th Session of the Lok Sabha being Unstarred Question No. 3791 dated 8th December, 1970. In reply, an assurance was given that the information on the point raised therein would be collected and laid on the Table of the House. The various aspects relating to restrictive trade practices were referred to the Department of Company Affairs and are still under correspondence. This position was reported to the Department of Parliamentary Affairs which in turn communicated it to the Lok Sabha Sectt. It is understood that the MRTP Commission has yet fix a hearing in the matter but a preliminary hearing is expected to take place in September, 1973. Till the hearing is over and the findings of the MRTP Commission are available, the assurance cannot be fulfilled.

8. This Ministry is concerned with problems of licensing and production under the Industries (Development and Regulation) Act. As stated in para 3 above, production of gramophone records is not covered by this Act. The fact that the Company

in question in this case is registered as a dominant undertaking was however ascertained and confirmed in the reply given to Unstarred Question No. 1586. Further questions relating to the commercial practices of this Company are not directly within the purview of this Ministry. Only the MRTTP Commission can give a finding on questions relating to the fairness or otherwise of the business dealing of such companies. Under the circumstances I would respectfully submit to the House that there was no attempt to either suppress any information available to the Ministry or, in any manner, to mislead the House.

11.34 hrs.

**MOTION OF NO-CONFIDENCE IN  
THE COUNCIL OF MINISTERS**

MR. SPEAKER: I have received this Motion from Shri Jyotirmoy Bosu. I have received another one from Shri Samar Guha. Shri Jyotirmoy Bosu has given this Motion of No-Confidence in the Council of Ministers under Rule 198. And also on the same subject there is the motion from Shri Samar Guha saying 'This House expresses its want of confidence in the Council of Ministers'.

May I request those of you who are in favour of this to please stand in your seats?

**SOME HON. MEMBERS rose—**

**SHRI JYOTIRMOY BOSU (Diamond Harbour):** I seek leave of the House for moving a motion which reads as follows:

"This House expresses its lack of confidence in the Council of Ministers."

*(Interruptions)*

**SHRI SHYAMNANDAN MISHRA (Begusarai):** With your permission, May I make an appeal? We in the opposition have not the slightest doubt in our mind that this Govern-

ment has landed the Country into an unprecedented crisis and deserves the severest censure possible. But, all the same, I would like to make an appeal to the hon. Members Shri Jyotirmoy Bosu and Shri Samar Guha not to press this. Certain developments have taken place. It was, in view of the serious crisis that the country is facing, that we had decided that this motion would be taken up on the 5th of this month. But, the Prime Minister is leaving early tonight.

**SHRI JYOTIRMOY BOSU:** Where is our Prime Minister?

**MR. SPEAKER:** She has gone to receive H.M. the King of Nepal.

**SHRI SHYAMNANDAN MISHRA:** But, Sir, we regret to note that the Prime Minister has to leave early tonight for the Non-aligned conference at Algiers which of course is of great international significance and, in particular, for the third world.

Now, in view of this situation, we would like to make an appeal to the hon. Members, Shri Jyotirmoy Bosu and Shri Samar Guha that they should not press for it.

There is an additional reason too which I would like to place before them. To-day, situated as we are, we may not have a full discussion on the no-confidence motion. We will have only a few hours at our disposal because, the Prime Minister is leaving early tonight. So, let them accept this appeal in the spirit in which it is conceived and let the motion be postponed to the next session.

This is an appeal to them. We have demonstrated the strength and support behind the motion. I think that almost all the leaders of the Opposition are also of this view. We earnestly appeal to them not to press for this motion.

**MR. SPEAKER:** Do you agree to this?