

LOK SABHA DEBATES

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LOK SABHA

Tuesday, March 26, 1985/Chaitra 5,
1907 (SAKA)

The Lok Sabha met at Eleven of the Clock

[MR. DEPUTY SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

Violation of Guarantee by Manufacturers of Consumer Products

[*English*]

*181. SHRI SATYENDRA NARAYAN SINHA : Will the Minister of INDUSTRY AND COMPANY AFFAIRS be pleased to state :

(a) whether manufacturers' guarantee on their consumer products has any legal status;

(b) whether Government have received any complaints about large scale violation of such guarantees ;

(c) whether any enquiry has been held by MRTP Commission into such cases; and

(d) if so, the outcome thereof ?

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY AND COMPANY AFFAIRS (SHRI ARIF MOHAMMAD KHAN) : (a) Yes Sir.

(b) and (c). Government have not received any complaints for the purpose of making any reference to the MRTP Commission under the provisions of the MRTP Act, 1969. However, the MRTP Commission during the calendar year 1984 have received and enquired into 14 complaints against the manufacturers involving guarantee.

(d) The present position of these cases is given in the Statement laid on the Table.

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SHRI SATYENDRA NARAYAN SINHA: It appears from the statement furnished that in some cases the complainants would not get redress of their grievance on very technical matters. For instance, I refer to case no. 5 where "the informant failed despite reminders to send a copy of the service contract entered into by it with M/s. Fedders Llyod and also a copy of any Warranty or guarantee etc. given by the Company". My submission would be that this Guarantee or warranty is given to every purchaser and it was for the complainant to provide that guarantee or warranty if the informant failed to supply a copy of the guarantee and on that basis alone this case should not have been dismissed against the complainant.

I want to know whether Government proposes to issue instructions to the manufacturers to have a guarantee, on a model basis, and issue it to all purchasers and a copy thereof kept in the manufacturers' office which could be produced to the MRTP Commission when there is any complaint of non-compliance with the guarantee conditions.

THE MINISTER OF CHEMICALS AND FERTILIZERS AND INDUSTRY AND COMPANY AFFAIRS (SHRI VEERENDRA PATIL): The MRTP Commission is appointed under the MRTP Act. This is a Commission which is a judicial body and whenever any corrupt practices, or unfair trade practices are brought to the notice of the Commission, they will take action and judicial proceedings would be initiated. And *suo motu*, the Commission has got the powers to institute an inquiry and if such complaints are received by the Ministry or by the Department, or even the Company Law Ministry, then those cases *prima facie* are referred to the Commission.

I wanted to make it clear that each unfair practice that is being indulged by the manufacturers is brought to the Commission's notice and it is for the Commission to go

Statement

Sl. No.	Name of the Informant/ Complainant	Date of receipt of Information/ complaint	Details of the complaint	Nature of orders passed, if any, by the commission with grounds.	Present position of pending com- plaints
1	2	3	4	5	6
1.	M/s. Meecon Private Limited.	13.1.1984	The Complainant alleged that M/s Premier Automobiles Limited have treated the warranty given by them against the purchase of a new Premier Padmini Delux Car as invalid and refused to provide service though the warranty period had not expired because the complainant had got fitted an Airconditioner in the said Car by another firm.	It was held by the Commission by its order dated 30.8.84 that the buyer (Complainant) has failed to establish case of restrictive trade practise against the respondent. (The restrictions imposed in the warranty to get the Air-conditioner installed by a person approved or authorised by the respondent was considered reasonable)	Does not arise.
2.	M/s. Spraylac Paints Corporation, New Delhi	1.6.1983	The Complainant alleged that M/s. Delhi Automobiles Pvt. Limited, New Delhi refused to render first free service to the Car purchased by it as provided under the warranty on the ground that the air conditioner was got fitted in the vehicle by some-body other than the sole authorised agent of the seller.	No orders were passed by the Commission on merits as the complaint was withdrawn by the Complainant by letter dated 1.6.1984.	Does not arise.
3.	Shri P. B. Kudaisya, New Delhi	19.4.1984	It was alleged by the informant that M/s. General Equipment Merchants Limited had not taken appropriate action with regard to the complaint made by him relating to replacement of defective parts	The case was closed by the Commission on 21.8.84 on the receipt of comments of the Complainee that although under the guarantee it is not possible to replace the	Does not arise

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of the GEM Refrigerator purchased by him and had failed to give a gift as advertised by the said company. Moreover, the Company had forced a stabilizer on him against his choice.

4. Mrs. Margret Francie, Baroda. 27.8.1984 It was alleged by the Informant that the Kelvinator Refrigerator sold to her by M/s. Refrigeration and Appliances, Baroda, on 25.7.84 turned out to be defective and neither the defect has been removed nor the Refrigerator has been replaced by the said seller. Further action will be taken on receipt of the report of the Director, Research, on 28.2.1985 for investigation and the report of the Director, Research, is awaited. Director, Research.

5. M/s. Padma Packages Limited New Delhi. 24.9.1984 It was alleged by the Informant that heavy amount was charged by M/s. Fedders Lloyd Limited for the Annual Service Contract entered into between them for the purchase of Air-conditioner but the contracted service has not been provided and the Airconditioner which was taken away for replacement of Compressor has not been returned on the plea that Compressor is not available. As the Informant failed despite reminders to send a copy of the Service Contract entered into by it with M/s. Fedders Lloyd and also a copy of any warranty or guarantee etc. given by the Company promising repair/replacement of defective parts of the Air-conditioner, the matter was closed by Order dated 22.2.85. Does not arise

6. M/s. Pfizer Limited, Bombay. 30.10.84 It was alleged that the car purchased by them from M/s. National Garage (P) Ltd, Bombay, contained defective parts which should be replaced by the Seller (the complaint was addressed to M/S. Hindustan Motors Ltd, Calcutta and taken. The complaint against guarantee related to a transaction which took place in 1983 and could not be treated as an unfair trade practice. Hence no action was taken. Does not arise.

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and only a copy was endorsed to the Commission).

7. M/S. Shri Ram Krishan, New Delhi. 14.9.84 It was alleged by the Informant that M/s. Kingston Electronics Pvt. Ltd, collected Rs. 800/- from him towards service charges for the second year of service at the time of sale of a TV set on 20.7.83. The Informant wants refund of these charges. The Commission has referred the matter on 26.2.85 to the Addl. Director General for investigation and the report is awaited. Director General. The matter will be considered further on receipt of report from Addl. Director General.
8. Shri Parasram of Port Blair. 22.8.84 It was alleged by the Informant that M/s. Expo Machinery Ltd, Delhi and M/s. Students Stores, Port Blair Avanti Scooter which was full of manufacturing defects. The Commission closed the Enquiry on intimation received from Students Stores, Port Blair that some minor defects were found which were subsequently removed. This was confirmed by the complainant. Does not arise.
9. Shri N.C. Malhotra, New Delhi. 13.8.84 It was alleged that Informant purchased a Refrigerator from M/s. Godrej and Boyce Mfg. Co. Ltd, New Delhi, having some manufacturing defects (Jammed sealed system) noticed during the warranty period. Enquiry was closed by order dated 19.12.84 as the Commission considered that since there was no unreasonable delay in replacement of the sealed system, no case of unfair trade practice was made out. Does not arise.
10. All India Bombay Tyres International Employees Federation, Bombay. 13.7.84 It was alleged that M/s. Bombay Tyres International Limited supplied original equipment tyres to M/s. TELCO under the brand name "Modi Stone" but these tyres were not manufactured by it; were manufactured by M/s Modi Rubber Limited and therefore, did not manufactured by M/s. Modi Limited categorically affirmed that the prescribed specification/standards for the tyres manufactured by M/s. Modi International M/s Bombay Tyre International Limited dated 14.12.84. The Commission closed the enquiry by order dated 14.12.84. Does not arise.

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possess the quality of "Modi Stone Tyres". Rubber and marketed under the brand name "Modi Stone" were strictly adhered to.

11. M/s. Kanhayalal Hazarilal and Sons Gwalior.

13.9.84

The informant purchased a T.V. set manufactured by M/s. Televista Co. through a sub-distributor at Gwalior. It was alleged that the set developed defects but the complainee did not remove the defects and awaited for the guarantee period to expire.

Reply of informant to the Commission with the concerned distributor for its comments on the complaint within two weeks. letter dated 18.2.85 is awaited.

set has been replaced to the complete satisfaction of the informant. The informant has been asked on 18.2.85 to confirm the statement of the complainee.

12. M/s. Acme Shoes (P) Limited.

17.8.84

It was alleged by the informant that a poor quality engine has been supplied in the new car supplied to them by M/s. Hindustan Motors Ltd, Calcutta and the said company has failed to replace or repair the same inspite of warranty given by the Complainee.

The informant has been asked by letter dated 11.3.85 to intimate whether the defects noticed by it in the car have been rectified by the complainee.

13. Mrs. Janak Sawheny Bombay.

18.5.84

It was alleged that the manufacturers Nirlep Fry Pan purchased by her (M/s. Silver Light Nirlepware Industries Pvt. Ltd, Bombay) have falsely represented in the Nirlep Literature and guarantee card issued by it that Nirlep Fry Pan has most modern fluon coated on it

Does not arise.

respondent cannot be proceeded against under section 36 A of the MRTP Act because there was no rebuttal to the averment of the respondent that scratches had de-

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and is marketed under IST licence, as developed on account of Pan being the coating of frypan purchased by her cleaned by sharp edged utensel and the alleged trade practices related to the period when it did not fall within the purview of the Act.

14. Mrs. L. R. Sinha,
Bombay.

26.6.84 The Complainant alleged unsatisfactory service of Television Set purchased by her from M/s. Weston Electronics Ltd, New Delhi.

The enquiry was closed by the Commission as the complainee replaced the T.V. Set by a new one although smaller by two inches and the complainant accepted the same.

Does not arise

into these matters. They can go into these matters on receiving complaints or *suo moto* also, or when a reference is made by the Company Law Ministry. I will again say that there is nothing wrong in the attitude of the Commission and nothing has been heard about it in the past. I can only assure the hon. Member that if any such complaint is brought to the notice of the Ministry or to the Commission's notice, action will be taken and under this Act sufficient provisions are there to take action against the manufacturers. I do not want to deal with it in detail, but they can award punishments and under Section 12 (A) and 12 (B) of this Act they can order injunction and compensation and see that whatever action that is contemplated in the Act is taken, to see that the order is implemented, or otherwise the Complainants are liable for punishment. Several powers have been given to the Commission under this Act. If the Members or the customers, complain, then the Commission will certainly go into this matter and take necessary action.

SHRI SATYENDRA NARAYAN SINHA: So far as the provisions of law are concerned, they are satisfactory, but unfortunately in no case has the Commission awarded any compensation to the complainants even where, it has been well-founded. The company has been made to replace the cylinder, engine, or spare parts-in such cases, but the purchaser does suffer harassment having to wait for months together and compensation should have been awarded. Unfortunately, in no case has compensation been awarded. Will the Government take any action for amending the provision to make it obligatory to award compensation in such cases ?

SHRI VEERENDRA PATIL : The hon. Member is of the view that the attitude of the Commission towards the manufacturers or towards the wholesale dealers or retail traders is lenient. As I said just now, it is a Judicial commission and I do not think that it is fair on my part to comment on the Judicial pronouncements made by the Commission. Whether they take lenient action or whether they take a strong view, it is entirely left to the discretion of the Commission because it is a Judicial commission. And so far as the hon. Member's suggestion that we should amend the provision in such a way that the Commission should take strong action against the defaulters is concerned, it is only a suggestion.

SHRI JAGANNATH RAO : May I invite the attention of the hon. Minister to Section 10 of the MRTP Act which says that when a complaint is referred to it, it can go into it ? No person can directly go to the Commission with a complaint. They have to report to the Government and the Government can refer it to the Commission. Nobody can go direct and file a complaint before the Commission. There has been a long standing demand for this in this House.

SHRI VEERENDRA PATIL : It is not necessary that the aggrieved party should approach only the Government. They can either approach the Commission or the Company Law Ministry or the State Government. The Commission can also *suo moto* institute an enquiry. If the State Government feels that a particular manufacturer indulges in unfair practices, it can also make a reference to the Commission. If the Department of Company Affairs receives any complaint and on finding that it is a *prima facie* case, it can also make a reference.

SHRI EDUARDO FALEIRO : This question does not concern the Commission alone, but it is a general question of consumer protection, which is a very serious question. One of the saddest aspects of our economy is the way our consumers are being exploited and victimised by low quality products and adulteration. It is definitely for this reason that in the priorities of the Government as put in the 20 Point Programme, consumer's protection appears at Point No. 17. I would like to know as to what his Ministry is doing in furtherance and to implement the objective at Point No. 17 of the 20 Point Programme, which deals with consumer protection. Specifically does the Ministry have a Consumer Protection Council where these matters of protection to the consumer are being taken up ?

Since the consumers are quite lethargic, in what manner is it involving the mass media to create consciousness and awareness about the rights of the consumers and about the dangers not merely to the economy but to the physical health of our people by adulteration and low quality products ?

SHRI VEERENDRA PATIL : So far as adulteration is concerned, there are several organisations which go into this matter. They inspect and then they take necessary action under different other provisions. But s

far as the corrupt or unfair practices are concerned, supposing a manufacturer is producing an item which is not according to the specification or below the standard, for such acts there is a sufficient provision under the MRTP Act wherein the Commission can take action. What action can be taken under this provision, it is all laid down in the Act itself. So far as the question of Consumer Council is concerned, it is not for my Ministry to consider it. But the appropriate Ministry to consider this suggestion is, I think, the Ministry of Civil Supplies.

PROF. MADHU DANDAVATE : The hon. Minister in his written reply has said that the Government have not received any complaints for the purpose of making any reference to the MRTP Commission. However, the MRTP Commission during the calendar year 1984 have received and enquired into 14 complaints against the manufacturers involving guarantee. According to Section 63 of the MRTP Act it is obligatory on the part of the Government that from the time the reports—either individual or administrative—are submitted by the Commission to the Government, they must be laid on the table of both the Houses. I would like to know whether in these 14 cases the reports which are submitted by the Commission, are laid on the Table along with the action taken report. If so, is there any indication in these reports that those questions which were raised by Mr. Sinha are dealt with there ?

SHRI VEERENDRA PATIL : In that case I have to go through the 14 cases where the MRTP Commission has given its finding. Whatever is required under the provision that is being fulfilled. Wherever we are required to place anything on the Table, we are doing that. So far as these 14 cases are concerned, the details of all such cases have been furnished here in the reply itself. I do not think there are any reports in such cases which we are required to place the reports on the Table. If we are required to do so, certainly we will place it on the Table.

PROF. MADHU DANDAVATE : If he does not know the reports which were laid on the Table, then his predecessor who laid those reports, may be called here so that he can tell us. There is no argument that he has not gone through them.

SHRI VEERENDRA PATIL : Sir, that is why I made it clear that the hon. Member has put a general question. Now, I do not know which are the reports which are required to be placed on the Table of the House. That is why I said wherever it is necessary or wherever we are required to place them on the Table of the House, we are placing those reports on the Table. But so far as Section 62 is concerned, which the hon. Members has referred to, that deals with Annual and other Reports and not with individual complaints. These are the individual complaints about which I have furnished the details.

(Interruptions)

PROF. MADHU DANDAVATE : Sir, since this is going on record for future generation, therefore, let me correct. Section 62 says that all the reports, individual as well as administrative, will be placed on the Table of the House. On one occasion one of his predecessors had failed to place these reports on the Table of the House and, therefore, a privilege motion was accepted and he tendered apologies to the House. So, let him not be under the impression that only particular reports are to be placed. Individual as well as all administrative reports are to be placed on the Table of the House. I have no complaint but anyway in the future he should bear in mind the importance of Section 62.

DR. DATTA SAMANT: Sir, the Government is planning to boost the production by giving various concessions to industrialists or big businessmen. This is a new policy which we have seen in this Budget. But considering the illiteracy and the backwardness in the country and the exploitation done by the big employers, will the Government seriously consider that the prices will not be put down by competition. This is a very important aspect of our economy because this is the major cause of exploitation of the masses here. Therefore, I ask the Minister whether the Government will consider to amend the MRTP Act to regularise the prices of the consumer items manufactured by the MRTP companies.

SHRI VEERENDRA PATIL : Sir, the MRTP companies are manufacturing so many items which are essential. They are manufacturing drugs which are life-saving, they are manufacturing other items like cement,

vanaspati and so many other items. Wherever it is necessary in the interest of the consumer to have a price control, there the Government is considering it and having a price control but where it is not necessary, I do not think this exercise is called for.

[Translation]

SHRI RAMASHRAY PRASAD SINGH : Mr. Deputy Speaker, Sir, I want to say that diesel engines being produced by the companies for agricultural development are of sub-standard quality. The engines purchased by the people in our area are of sub-standard quality and the farmers have suffered loss to the tune of lakhs of rupees. Ajeet Company has produced this engine and they are in collusion with the bank officials who compel the farmers to purchase this particular brand of engine. It has resulted in loss to the tune of lakhs of rupees to the farmers. Therefore, I want to know whether Government would order an inquiry into it. The engines supplied by Ajeet company to the farmers are quite sub-standard and the company does not undertake repairs even during the guarantee period. It does not honour its guarantee. I would like to know whether government would order a special inquiry against Ajeet company?

SHRI VEERENDRA PATIL: Mr. Deputy Speaker, Sir, when any company produces sub-standard goods, certainly, the buyer will not purchase them and will go in for a quality product as he pays money for it. If a company produces sub-standard goods, it will have no market and there is a commission of judicial officers to take action against those who produce sub-standard goods. They take action against them. There are provisions in the Act for this purpose. For essential commodities, provision exists in the Essential Commodities Act. In addition to this, action against companies producing sub-standard goods can be taken under the Industrial Development Act also. Such things happen when the consumer is not alerted. We are prepared to do as much as possible but such things should be brought to the notice of the Government:

[English]

Repolling due to booth capturing in Assembly Elections

*183. **SHRIMATI GEETA MUKHERJEE :** Will the Minister of LAW AND JUSTICE be pleased to state :

(a) whether repoll had to be ordered in many booths for one or the other reasons when polling for Assembly elections was disrupted on the 2nd March, 1985 : and

(b) if so, the reasons thereof and number of booths State-wise where repolling was necessitated ?

THE MINISTER OF LAW AND JUSTICE (SHRI A.K. SEN) : (a) Yes, Sir.

(b) Repoll was necessitated at 146 polling stations in Bihar and 25 in Uttar Pradesh. Broadly, the reasons were :- destruction of poll, looting of polled ballot boxes, attack on polling authorities, snatching of signed ballot papers and inserting them into ballot boxes, group clashes, non-conformity with established poll procedure, etc.

SHRIMATI GEETA MUKHERJEE : Whatever reasons have been given here are bad enough and it is a very sad commentary on the situation prevailing during the Assembly elections. It naturally goes without saying that the Government have not at all gone into the reasons and fixed responsibility on the persons concerned, because they knew the principal persons or party behind it. So, I would like to put to specific questions. Part (a) of my first supplementary deals with the reply of the Minister that repoll was necessitated at 146 polling stations in Bihar and 25 in UP. The general directive of the Election Commission is that wherever there is more than 90 per cent voting, repoll should take place. Do I take it that only in these constituencies 90 per cent or more voting took place? or, would the Government give us the figures of the actual number of booths where more than 90 per cent voting was there and yet no repoll was ordered.

PROF. MADHU DANDAVATE : At one place it was 102 per cent.

AN HON. MEMBER : That is the achievement of the ruling party.

SHRIMATI GEETA MUKHERJEE : That goes without saying, even though you may say 'No'. Now I ask another specific question. Out of the 146 booths in Bihar, where repoll was ordered, 60 booths happen to be in one particular constituency, the Islampur constituency under the Nalanda parliamentary constituency, whose representative is here. I understand that in these 60 booths what happened was in addition to