

Mr. Deputy-Speaker: Next Bill, Shri Satis Chandra Samanta—not here. Shri A. K. Gopalan.

14.36 hrs.

BEEDI AND CIGAR LABOUR BILL

by Shri A. K. Gopalan

Shri A. K. Gopalan (Kasergod): I do not know, Sir, which Minister will reply to this. I do not see the Minister of Labour or anybody here.

Shri Rane (Buldana): Here is the Law Minister.

Mr. Deputy-Speaker: Government is represented. We will go on.

Shri A. K. Gopalan: Sir, I beg to move:

“That the Bill to provide for the regulation of employment and work in the factories manufacturing Beedi and Cigar in India be taken into consideration.”

Sir, as has been explained in the Statement of Objects and Reasons to this Bill, the Beedi and Cigar industries are among the worst sweated industries in India. Low wages, insecurity of employment, partial employment, employment of children, high incidence of T.B., absence of protective labour legislation, outdoor work and branch system, all these demand introduction of an immediate legislation with a view to regulating the above industries on factory basis and securing the workers certain minimum conditions of work. The Reg. Labour Consultative Committee Report as far back as 1946 has stressed the importance of such a legislation. This Bill seeks to put the Beedi and Cigar industry on a factory basis while still protecting the self-employed worker. This Bill also seeks to assure the workers the benefits of protective labour legislation available to larger sections of industrial workers. The main reason for the introduction of the Bill is that

some of the States have already passed legislation on these lines, but in the absence of legislation in the neighbouring States, some of the owners are closing down their factories and transferring them to States where legislation does not exist. The passing of an all-India legislation will prevent this malpractice.

That is the main object of this legislation. As far as the clauses are concerned, I need explain only two or three most important ones. One is that which is contained in Chapter IV, clause 16: “No employer shall engage any woman worker for any outdoor work connected with the manufacture of Beedis or Cigars.” The next important clause is contained in clause 25 of Chapter VII which reads as follows:

“Whenever any workman who has put in service of one year or more is retrenched, discharged, dismissed or retired, he shall be given benefits at the rate of fifteen days wages for every year of service put in by him.”

Then, the next important clause is clause 27 of Chapter VIII which reads as follows:

“Any self-employed worker who sells or otherwise disposes of his produce of Beedi or Cigar to any factory owner, dealer or merchant in Beedi or Cigar having tobacco licence or trade mark of any particular brand of Beedi or Cigar, shall forfeit his licence for rolling Beedi or Cigar and shall be punishable with fine which may extend to rupees one hundred.”

These are the most important clauses in the Bill. I am glad that the Minister in charge of this subject has now come.

The Minister of Labour in the Ministry of Labour and Employment (Shri Hathi): I was here when you started.

Shri A. K. Gopalan: This Bill is more or less on the same lines as the one which had been introduced by me in 1957. I shall, after sometime, explain the reply given by the then Deputy Minister of Labour, Shri Abid Ali. It is now after five years that this Bill has been introduced. As far as this legislation is concerned, even in the year 1945, a Committee was appointed—Rega Committee—which went into the question of beedi and cigar workers and the report was submitted by that committee. In that report, the committee said that this industry is one of the worst industries in India with low wage, insecurity of employment, partial employment, employment of children, high incidence of T.B., absence of labour legislation, etc. It was in 1945 that they gave this report. Now, the conditions in the industry are not better, even though so many years have passed. As far as this industry is concerned, there are about two million people working in this industry, and they are distributed all over India. As far as the organisation of this industry is concerned, there is a direct basis and the indirect basis. In the direct basis, the tobacco leaf is given to certain middlemen, the agents, who get some workers and ask them to work. Then they pay the wages as they like and then sell the commodity to the owner. As far as the indirect system is concerned, there are three methods or kinds. One is the buying and selling system. The other is the commission system and the third is home-work system. The middleman purchases tobacco leaves from the factory, takes them to the worker and then comes and gives them to the owner after making the beedis. The other is the commission system. In many States, in Kerala and in Madras and some other States also, legislation had been enacted to see that these workers are given the protection under the Factories Act, the Minimum Wages Act and other Acts. But as far as these workers are concerned, in order to evade the Fac-

tories Act, the factory is closed and the workers—eight or nine—are taken to some other place and are given tobacco leaves. Thus, the provisions of the Factories Act are evaded and the workers do not get the protection of the Act.

As far as the Minimum Wages Act is concerned, in many places, where it has been passed, the workers could not get minimum wages, because when they press for the wages, the factory will be shifted or the worker will be shifted from that State to another. When the Minimum Wages Act had been passed in Kerala they shifted this work to the Karnataka State. When the Minimum Wages Act was to be implemented in Madras, they also shifted the work to the neighbouring State. When I introduced the Bill for the first time, in 1957, the then Deputy Minister of Labour made some observations. One point that he brought forward was that there is a large number of labour legislations in the country like the Factories Act, Industrial Disputes Act, Payment of Wages Act, Minimum Wages Act, etc., and so he said that there is no necessity for a separate all-India labour legislation as far as this industry is concerned. That is what he said.

But there were so many tribunals after that. There was the Bombay tribunal, the Nagpur tribunal and the Madras tribunal. In all these tribunals, they said that the workers in this industry, because of the nature of employment in this industry, are not workers coming within the definition of these Acts and so the benefits of the Industrial Disputes Act or the Payment of Wages Act and other beneficial pieces of legislation are denied to them. They say that it is a contract system; there is no em-

[Shri A. K. Gopalan]

employer-employee relationship as far as these workers are concerned, and they do not come under the definition, "worker." So, none of these pieces of legislation applies to them; that is what the tribunals said. The Nagpur tribunal also said so when there was a dispute about the minimum wages. The reply that had been given in 1959 to the effect that because there are so many pieces of legislation like the Factories Act, the Minimum Wages Act and other Acts, that they will also apply to these workers and that therefore no special kind of legislation is necessary, does not stand even today, because, in many places, many tribunals—Nagpur, Madras and Bombay tribunals—have already given the award and said that as far as these workers are concerned, these Acts do not apply because there is no employer-employee relationship, and that it is a contract system or is on a commission basis, and so these Acts do not apply to them.

The next reply that was given by the then Minister was in answer to the debate in 1957. He then said:

"I have already assured the House that with regard to the defects or difficulties which have been mentioned arising out of the decisions of the High Courts, we will examine them and if our intention is not being carried out because of the decision of the High Courts, we will take steps to amend the Acts concerned. If there are workers who do not come under the Factories Act and other Acts, in order to defeat the Factory and other Acts if certain things are done, we will take care of them. The Factories Act should be applied to them and if it is not done, we will take necessary action to see that it is effectively applied."

It was in 1959 that this assurance was given. Even after so many

years, the condition is the same. Unless there is a comprehensive all-India legislation, none of these Acts can be applied. They will only say that there is no employer-employee relation and nothing will be done.

In almost all the places, the factories are non-existent. Where the factories are there, the Minimum Wages Act and other Acts are not implemented. If the workers say that the Minimum Wages Act must be implemented, the employers will shift them to some other place where such Acts are not there.

I do not want to speak more on this. This is a clear and simple Bill. The complaint in the States also is that wherever these Acts are passed they find it difficult to implement them. Unless and until there is a comprehensive legislation like this, nothing can be done. Even if the Minister does not accept this Bill, I want an assurance from him. When millions of workers are employed in certain industries and they are getting the benefits of labour legislation in this country, here are millions of workers who do not get any benefit of any legislation that is passed. It is high time that these workers get these benefits. In the first Parliament, such a Bill was introduced. In the second Parliament also, it was introduced and the reply was given that it will be considered. So, it is high time that such a comprehensive legislation on the lines which I have suggested is brought forward by the Government.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the regulation of employment and work in the factories manufacturing Beedi and Cigar in India be taken into consideration."

The time allotted is one hour. Shri Narendra Singh Mahida.

Shri A. K. Gopalan: The time allotted is one hour and a half, Sir.

Shri Narendra Singh Mahida (Anand): Mr. Deputy-Speaker, Sir, on humanitarian grounds, I accept the suggestion of Shri A. K. Gopalan because this industry is connected mostly with my constituency. In Gujarat, tobacco is grown mostly in Kaira district. I have visited many of these under-factories. I do not call them factories because they do not come under the Factories Act—and I have seen the conditions. It is very difficult to work there. I do not think for an hour even we can work in these places, I fail to understand why Government has not yet thought about this matter.

On page 4 of the Bill it has been suggested that women should not be allowed to do any sort of outdoor work. I wholeheartedly support this, because I have seen in many cases where women are called for out-door work there have been many cases of rape and attacks on women. Therefore, this is a very welcome suggestion, and I request the hon. Minister, through you, Sir, to take note of this.

With regard to medical facilities, I find that there is no provision of any medical facility in any of these so-called beedi factories. The dust that arises from the crushing or the sieving of tobacco leaves goes through the nose and it irritates the lungs. I have seen many cases suffering from T.B. and other diseases. There are no medical facilities in any of the factories I have come across.

Sir, this is a very good piece of legislation which Shri Gopalan has introduced. I am fully in support with it and I request the hon. Minister to take stringent steps. If they are not being controlled by the Factories Act, some sort of legislation should be brought in, or the Central Excise Department may be instructed that their inspectors may go round, visit these so-called factories and see that at least minimum standards of medical and other facilities are being provided.

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Shri A. K. Gopalan: They are going even now.

Shri Narendra Singh Mahida: But they cannot compel the tobacco merchants because it does not fall under the Factories Act. But on humanitarian grounds I appeal to the hon. Minister to look into this matter and see that some central legislation is brought in.

We should, therein, draw special attention to the question of employment of children, young children aged 7 or 8. They are now being made to work in these factories. Some provision should be there to prevent their working in these factories. Even if they have to work owing to economic conditions, they must be guarded with all facilities. They must be provided with some sort of a system whereby the powder is prevented from going into their noses.

Sir, as I said, I wholeheartedly support Shri Gopalan's Bill and I wish the hon. Minister takes full note of this.

श्री बड़े (खारगोन) : उपाध्यक्ष महोदय, यह जो बिल श्री गोपालन साहब ने यहां पेश किया है, इसका मैं हृदय से समर्थन करता हूं। पन्द्रह साल हमें स्वाधीन हुए हो गए हैं लेकिन अभी तक इस तरह का कोई बिल सरकार की तरफ से क्यों नहीं लाया गया है, मेरी समझ में नहीं आता है। लोगों में यह धारणा है कि इस तरह का बिल इस वास्ते नहीं लाया गया है कि मध्य प्रदेश में जो बीड़ी के कारखानेदार हैं, वे सब के सब रूलिंग पार्टी से सम्बन्धित हैं और इसलिए इस तरह का विधेयक शासन लाना नहीं चाहता है। यह रांग इम्प्रेशन है या राइट, मैं नहीं जानता हूं। लेकिन इस इम्प्रेशन को ठीक किया जाना चाहिये।

जो बीड़ी के कारखानेदार हैं, वे दो तरह से पैसा कमाते हैं। एक तो मजदूरों का पेट काट कर कमाते हैं और दूसरे ज्यादा प्राफिट

[श्री बड़े]

करके कमाते हैं। मैं जिस निर्वाचन क्षेत्र से आया हूँ वहाँ पर मैंने देखा है कि एक बीड़ी बालों की यूनियन है। जो काम करने वाले मजदूर हैं उनको मुश्किल से मुबह से शाम करने के बावजूद भी एक रुपया बारह आने या एक रुपया तेरह आने ही मिलते हैं। वहाँ पर भी जैसा गोपालन जी ने कहा है, तीन तरह का काण्ट्रैक्ट रहता है। वहाँ पर छोटे छोटे बच्चों से भी काम लिया जाता है। बच्चों से काम लेने के बारे में कोई लैजिस्लेशन नहीं बना है। कोई इंस्पेक्टर वहाँ पर जाकर इस चीज़ को देखता नहीं है और अगर जाकर देखता भी है तो कोई कानून नहीं है जिसके अधीन उस कारखानेदार को सजा दी जा सके।

मैं यह भी चाहता था कि इस बिल के प्रस्तुतकर्ता इसमें इस का भी प्राविज्ञन रखते कि उनको मिनिमम वेजिज़ मिल पाती। इस वक्त इसमें कोई इस तरह का प्राविज्ञन नहीं रखा गया है। मिनिमम वेजिज़ के बारे में अलग अलग स्टेट्स में अलग अलग एक्ट हैं। अगर मिनिमम वेजिज़ के बारे में भी कोई इसमें प्राविज्ञन किया जाता तो मजदूरों के हित की दृष्टि से अच्छा रहता। हमें चाहिये कि हम उनको मिनिमम वेजिज़ दिलाने का प्रबन्ध करें।

जो काण्ट्रैक्ट बेसिस पर काम होता है, वह काण्ट्रैक्ट बेसिस पर नहीं होना चाहिये। जो गरीब किसान हैं, काश्तकार हैं, वे धार छः महीने तो काश्तकारी का काम करते हैं, और बाकी समय में बीड़ी बनाने का धंधा घर में करते हैं। कारखानेदार से वे बीड़ी का तम्बाकू ले आते हैं, टेडू के पत्ते ले आते हैं, बीड़ी बनाने के पत्ते ले आते हैं और बीड़ी बना कर दूसरे गंज जाकर उसको दे आते हैं और हिसाब करके पैसे ले आते हैं। वहाँ पर जो रद्दी बीड़ियाँ निकलती हैं उनको अलग कर दिया जाता है। वे उनको वापिस नहीं

मिलती हैं, बल्कि वे सेठ जी की हो जाती हैं। इस वास्ते मैं चाहता हूँ कि जो प्राफिटियरिंग बह करता है, उस पर किसी प्रकार का बन्धन अवश्य लगना चाहिये।

शासन को चाहिये था कि वह स्वयं इस प्रकार का बिल यहां लाता। लेकिन वह ऐसा नहीं कर पाया है। लेकिन अब भी समय है कि इसको कुछ संशोधनों के साथ जो कि मैंने आपके सामने रखे हैं या अन्य माननीय सदस्यों ने रखे हैं, इसको स्वीकार कर लिया जाए। मैं जानता हूँ कि माननीय मन्त्री जी कहेंगे कि हम इसको स्वीकार नहीं कर सकते। लेकिन अगर आप इसको स्वीकार नहीं कर सकते तो क्यों नहीं आप अपनी ओर से कोई विधेयक यहां प्रस्तुत करते।

लेडीज़ को रखने के बारे में भी यहां पर एक प्राविज्ञन रखा गया है। महिदा साहब ने भी इसका जिक्र दिया है। इसमें कहा गया है :

"In case where large number of women workers are employed, separate factories shall be established or set up for such women workers."

यह ठीक है। जब औरतों के बच्चा होना होता है, उस वक्त और उसके बाद भी वे काम नहीं कर सकती हैं, हैज़रडस नेचर का काम नहीं कर सकती हैं। इसके लिये उनको छुट्टी मिलनी चाहिये और इस छुट्टी में उनको पूरी तनख्वाह देने का प्रबन्ध किया जाना चाहिये। साथ ही साथ फ़ैस्टीवल्ज़ के सिलसिले में भी उनको छुट्टी मिलनी चाहिये और उस छुट्टी के दिनों में तनख्वाह भी दी जानी चाहिये। फ़ैक्ट्रीज़ एक्ट में इस वक्त है कि डिलीवरी होने के वक्त में लेडीज़ काम नहीं करती हैं और उनको छुट्टी दी जाती है जिसकी उनको तनख्वाह मिलती है। इसी प्रकार का प्राविज्ञन इसमें भी होना चाहिये। इस वक्त नहीं है। बीमार अगर कोई पड़े तो उस दौरान

में भी मजदूर को तनख्वाह मिलनी चाहिये । बच्चा होने के वक्त औरतें एक महीने तक काम नहीं कर सकती हैं, इस एक महीने की उनको तनख्वाह मिलनी चाहिये ।

मध्य प्रदेश में बीड़ मालकों ने लाखों नहीं करोड़ों रुपया कमाया है । हरदा, टमूरनी, खारगोन आदि स्थानों पर जहाँ भी बीड़ी के कारखाने हैं, उन सभी के मालिक बहुत पैसे वाले हों गये हैं । ऐसा कहा जाता है कि उनका कूलिंग पार्टी स सम्बन्ध है और वे सभी उसके अन्तर्गत हैं । यह जो इम्प्रेशन है वह चाहे गलत है या सही है इसको दूर किया जाना चाहिये और कोई बिल आपकी तरफ से आना चाहिये या फिर इस बिल को कुछ एमेंडमेंट्स के साथ स्वीकार कर लेना चाहिये ।

Shri M. L. Jadhav (Malegaon): Sir, I rise to make certain observations on the measure that is before the House.

In the first place, I might refer to an important decision of the Supreme Court wherein it is observed that the beedi workers who work in beedi factories cannot come under the category of a factory worker.

Shri S. M. Banerjee (Kanpur): Sir, I rise to a point of order.

Mr. Deputy-Speaker: Let him have his say.

Shri S. M. Banerjee: It should be known to the hon. Member that, after all, we are only seeking to pass a Bill.

Shri M. L. Jadhav: In that judgment it is observed that a beedi worker does not come under the category of a factory worker because his work is on a contract basis, and whatever wages he earns it depends upon the output of the work that he puts in. In a beedi factory it is the usual practice that the man is not paid daily wages or monthly wages, he is paid on the output that he puts in.

In a number of beedi factories I find that old men and women are employed who may not be eligible for work under the Factories Act in any factory. But beedi-making is such a profession where these old and dis-

abled men and women work and earn their livelihood, and it all depends upon the output of work that they put in. If you apply the Factories Act to these factories, then these people who are in a position to earn after retirement from their present work, people who are working as peons or in some government departments on low salaries, will be denied this opportunity to earn. Here is an opportunity for these people, who are practically disabled people, to work in a beedi factory and earn their livelihood. If these people are brought under the Factories Act, then I am afraid they may be deprived of their means of maintenance and livelihood. They will not be able to work in the factory as per the factory rules. Therefore I feel that though the measure that has been brought forward might have been brought before the House with a laudable intention, but looking into the provisions of this measure, I am afraid, the Bill that is before the House may not fulfil the object that is intended to be fulfilled by the hon. Mover of the Bill. Hence, with these observations I oppose the Bill.

15 hrs.

Shri Koya (Kozhikode): Mr. Deputy-Speaker, Sir, I rise to support the Bill brought forward by my hon. friend, Shri Gopalan. The hon. Member who spoke just before me said that *bidi* workers are not considered as factory workers and that they are not eligible for getting the privileges of factory workers. That is one reason why Shri Gopalan has brought forward this Bill.

Bidi workers are just like any other factory workers. The owners of the *bidi* factories try to defeat even the purpose of the labour laws by the branch system and the contract system as well as by other methods of exploitation. We, in Kerala, tried to legislate for the benefit and welfare of the *bidi* workers. Minimum wages were also fixed for the *bidi* workers but because the States of Mysore and Madras did not co-operate, that legislation was responsible for the migration of the industry from Kerala to

[Shri Koya.]

Tamilnad and Mysore. The workers were put to much difficulty because of the migration of the industry. So, if the Central Government takes the initiative and if a Central legislation, as envisaged by Shri Gopalan's Bill, is enacted the State Governments of Mysore and Madras will have to cooperate with the other Governments and a uniform legislation and uniform minimum wages will also be possible.

The big bidi factory owners try to defeat the labour laws as well as the factory laws, as I said earlier, by the branch system. Various branches of the same management and under the same trade mark are established at different places and only a few people are employed there and thus they escape from the factory laws.

The employment of children in the bidi industry also is a very serious problem and I am glad that Shri Gopalan has been careful enough to include a clause in the Bill to avoid the employment of children.

Then, retrenchment in the bidi factory is also a common problem which the unions and the workers have to face in our area.

Clause 16 provides:—

"No employer shall engage any woman worker for any outdoor work connected with the manufacture of Beedis or Cigars."

I know that this clause has been included to defeat the branch system, but those women who are working on a cottage industry level should not be put to any handicap.

With these words, I support this Bill

Shri S. M. Banerjee: Mr. Deputy-Speaker. Sir, I should refer to the observation made by my hon. friend on the opposite benches regarding the Supreme Court's judgment. The Supreme Court's judgment was that bidi workers should not be considered as factory workers because they worked on contract. I can quote similar judgments where this contract system was referred to by many industries.

For instance, recently in some of the High Courts—I do not exactly remember in which High Court—it was said that some contractors were taking work from construction workers. They also referred to a case where the construction workers who are actually engaged on a contract system are entitled to minimum wages and other benefits under labour legislation. But the whole thing is not this. If we say that there is contract system in the bidi industry, the contract system is there in the name of piece-meal rate system in all the ordnance factories, textile mills and other industries, like docks etc. So, I would request my hon. friend kindly to view the entire problem before the working class and see whether this should be allowed to continue.

This House is supreme and any judgment passed by the Supreme Court or by the High Courts can be rectified or modified here. In this legislation, I am sure, Shri Gopalan somehow or the other missed this point, but when I had a discussion with him he did mention about the Supreme Court's judgment and I thought that in the statement of objects and reasons that would be included. So, because the Supreme Court has passed a judgment in favour of the employers who are taking every kind of hazardous work from small boys, women and other people, that should not stand in the way of our passing this legislation.

I would request the hon. Minister to accept this Bill. These bidi workers are not even paid the minimum wages. For instance, in Madhya Pradesh itself the total number of bidi workers is more than 2½ lakhs and I know that with the exception of a very few in three or four places no worker is getting even Rs. 1-12 which is supposed to be the minimum wage for bidi workers.

I fully support this Bill. It is quite exhaustive and such a comprehensive piece of legislation is going to help.

Another point which I wish to make is this. At this hour the country

needs production in all quarters. Previously if the *bidi* workers did not get a fair deal from the employers, they could have gone on strike. They could have demonstrated their sentiments which were actually the manifestation of their anger against the employers. But what will happen today when we are having an emergency in the country and when we do not want any strikes or lock-outs and when we want production to increase in every field, whether it is *bidi* or cigars. We should not say that it is unnecessary. Smoking, unfortunately, has become a habit with people in this country and it has increased to a great extent. If we do not want any struggle for minimum wages or for other amenities to come, such a legislation is necessary.

It is not the question of *bidi* industry alone. For every industry there should be legislation so that workers can possibly ventilate their grievances through the various provisions of the law. I would, therefore, request the hon. Minister, taking the present situation of emergency also into consideration, to accept this. If it is not possible for him to accept it immediately, let him make a promise that inspectors will be deputed to see that this sweated labour ends and the workers are given something in the form of better wages, better amenities and so on.

With these words I support this Bill.

Shri Umanath (Pudukkottai): One question I would like to put.

Mr. Deputy-Speaker: There is no time. Your leader will take care of the Bill.

Shri Umanath: There is a latest development which I would like to submit. Then, the Minister may reply.

Mr. Deputy-Speaker: One minute.

Shri Umanath: Even in a State where the State Government brings in legislation, the latest method of circumventing the legislation is for the employer to take out an L.2 licence.

Then, the State legislation will not cover that. What the owners are doing is this. They are taking out L.2 licences in the name of their henchmen. In this manner, 85 L.2 licences are owned by one owner in Vellore. Myself and Shri A. K. Gopalan suggested to the Finance Minister that hereafter when L.2 licences are applied for by people at least the Labour department of the State may be consulted and verified whether it is meant to circumvent the law or otherwise. The Finance Minister replied that we cannot deviate from the ordinary business practices. Even with a State where the legislation is there, this is the latest method that is adopted. Women work throughout the night without sleep for pasting the strings at the rate of one and a half annas per thousand. They can roll 3000 *bidis*. To earn 4½ annas, they go without sleep. Such being the sweated nature of the industry, it is high time that Central legislation is brought.

श्री ह० च० सोय (मिहभूम) : उपाध्यक्ष महोदय, जब बीड़ी के मजदूरों के सम्बन्ध में कानून बन रहा है तो मैं चाहता हूँ कि आपके जरिए मे लेबर मिनिस्टर को अपने इलाके के बीड़ी मजदूरों के बारे में बतलाऊँ ।

हमारे अपने अकेले जिले में करीब ३० हजार मजदूर बीड़ी बनाने वाले हैं । जैसा कि अभी माननीय सदस्य ने कहा वे करीब करीब बीस घंटे रोज काम करते हैं, सबेरे से लेकर रात तक । सबसे ज्यादा शोषण उनका इसलिये होता है कि उनकी मजदूरी को सुरक्षा का कोई ठिकाना नहीं है । इसके अलावा उनके स्वास्थ्य आदि के लिये भी कोई इन्तिजाम नहीं है । बच्चों में भी मजदूरी कराई जाती है और वे स्कूल नहीं जा पाते हैं ।

सबसे बड़ी बात यह है कि जो बीड़ी के मजदूर मालिकों के पास जमा करते हैं उसकी उनको मालिक पूरी मजदूरी नहीं देते । उनकी मजदूरी का करीब दसवां हिस्सा यह कह कर काट लेते हैं कि बीड़ियां खराब हो गयीं । लेकिन असल में होता यह है कि उन खराब बीड़ियों को नष्ट नहीं किया जाता और

[श्री ह० च० सोय]

मालिक उन को भी बेच लेते हैं। इस प्रकार सरासर बीड़ी मजदूरों की कमाई की लूट की जाती है।

इस बिल में जो बीड़ी मजदूरों के सम्बन्ध में मिनिमम बेजेज और प्राविडेंट फण्ड आदि के बारे में इन्तिजाम हो रहा है, इसलिये यह बहुत अच्छा बिल है और मैं सहर्ष इसका स्वागत करता हूँ और आशा है कि मन्त्री महोदय इस सम्बन्ध में अच्छी तरह से विचार करेंगे।

Shri Hathi: Mr. Deputy-Speaker, Sir, I have heard the arguments advanced by Shri A. K. Gopalan and other hon. Members. The condition of the bidi workers has attracted the attention of all concerned and a committee was appointed as stated by Shri A. K. Gopalan. The Committee gave a report according to which the condition of the workers was not satisfactory.

I may say at the very outset that we have full sympathy with the bidi workers and their conditions should be improved. There cannot be two opinions about this. The Bill that has been moved by Shri A. K. Gopalan deals with various points; hours of employment, weekly holidays and wages, overtime wages, annual leave with wages, festival and national holidays, drinking water arrangements, arrangement for conservancy, medical facilities, sickness and maternity benefits, canteens, recreational facilities, guaranteed employment, retirement, retrenchment and dismissal, gratuity benefits, prohibition of out-door work for women, prohibition of employment of children, establishment of separate factories where a large number of women are employed, and such other matters.

As Shri Abid Ali had suggested as Shri A. K. Gopalan said, after this report, other Acts were passed and these Acts relate to several of these amenities which are sought to be given. But, I do not want to repeat the same re-

ply. Because, if these provisions have not been effective, something has to be done. I would not for one say that if there is something on the statute-book and it is not being implemented, and if the conditions of the workers are the same, nothing should be done. I would not take that stand.

Shri A. K. Gopalan: May I make a clarification? What I said was, even as far as minimum wages are concerned, if there is minimum wage legislation in one State, that cannot be implemented because the whole industry will go to another State.

Shri Hathi: I am exactly coming to that. I was only developing your point. I am coming to that. Therefore I said, there is provision for fixing of minimum wages and that has been done. We cannot rest satisfied with that. If the effect is, as they have stated, that they migrate to some neighbouring State, what has to be done. Therefore what I said was, simply saying that something is there on the statute-book, it is not enough. If the effect is what Shri A. K. Gopalan has stated, something else has to be done. It may be a Central Act or some other measures.

I will narrate to the House what we have done so that this migration can stop. That question has not remained unattended to. It has not been shelved. On the contrary, we have been constantly taking up this question in various Ministers conferences, and inter-State committees. For this purpose, we had a meeting of the Inter-State Committee in 1958. There, this very question was taken up. The point suggested by Shri A. K. Gopalan is very relevant. Because if they migrate where there are higher wages, the industry will suffer. That may be possible if all of them migrate. The Committee recommended that all the State Governments should fix or revise the minimum wage rate in the industry in such a way as to avoid serious disparities and prevent migra-

tion of the industry from one State to another.

The State Governments were also requested to expedite action in this regard. We initiated action and requested the States that if they want to avoid this consequence, this is a measure which will be useful. There was another meeting later on. We saw some of the States had taken action. The Government of Madras has reported that under agreement reached between bidi workers and employers, the workers are now assured of wages at a rate higher than 1.50 for rolling 1000 bidis. The Government of Orissa also has revised the minimum wage to 1.50 for rolling 1000 bidis. That is uniform. Thus, the question of migration from one area to another may not arise.

The other question that was suggested was the employment of children and maternity benefits. Various Acts are applicable and the employment of children below the age of 14 is prohibited. The Maternity Benefits Act of 1961 will be brought into force. That will supersede these Acts. But, the position regarding the employment of women in factories still remains unchanged.

Then, the question was raised about the Supreme Court judgment. Again, I may submit that I would not say on the basis of that judgment that a *beedi* worker is not a worker, and, therefore, these amenities are not permissible to him. The Labour Ministry is considering this question and seeing how the definition of the term 'worker' will have to be amended so as to cover these people also. If we say on the one hand that we want that the benefits should be extended to the workers, and on the other hand we find that a *beedi* worker is not a worker according to the Supreme Court judgment, and, therefore, all the benefits which we say are derivable from the various labour legislations are not available to him, then that definition has to be amended. We are looking into this question, and we shall see that the definition is amended, if necessary, so that they are also covered.

Then, the point was raised that certain other benefits are not made available to them. We have discussed this question at length. There are certain practical difficulties. If there is one room or one house or one particular compound within which the workers come and work, then we can define a factory as a place where workers come and work, and all the conditions that we want to impose can be imposed. But there are cases where people take the *beedi* leaves to their houses and do the rolling there, and then give back the rolled *beedis* to the employer and get their wages. Let us consider what the effect would be if all this were stopped. Supposing we provide by legislation that no work should be given to outsiders.....

Shri A. K. Gopalan: May I explain the position as to what the Bill seeks to do? In the Statement of Objects and Reasons appended to the Bill it has been stated:

"The Bill seeks to put the *Beedi* and Cigar Industry on a factory basis while still protecting the self-employed worker."

So, the Bill contains provisions for protecting the interests of the self-employed worker. According to the Bill, the term 'self-employed worker' is defined as follows:

"'Self-employed worker' means any person who takes a licence for rolling *Beedis* or Cigars himself without engaging any hired labour."

And the term 'workman' has been defined as follows:

"'workman' means any person employed to do any manufacturing process concerned with *Beedi* or Cigar Industry for hire or reward and includes a person employed by a contractor, agent, or manager to work for the principal employer in whose name the trade mark of the product is registered under the Trade Marks Act, 1940."

[Shri A. K. Gopalan]

Therefore, it has been clearly provided here that if there is a self-employed worker engaged in this industry on a cottage industry basis, there is no harm, provided he does not give the *beedis* to an employer who has got a certain trade mark, but gives only to some ordinary small merchant. If that is done, then we can see that the Factory Act is implemented, and the factory conforms to the provisions of the Act. So, if this legislation is there, then a self-employed worker is protected, and at the same time, he will not be allowed to sell the product to those who have got a trade mark.

Shri Hathi: In fact, I was referring to that particular point. When I said that we have discussed all the aspects, I implied that this was also one of the aspects which we considered. So, this problem is not left unattended to. What I am aiming at is that there are various difficulties. We have looked into these difficulties. If there are legal impediments, then they have to be remedied. If there are practical difficulties they have to be remedied. So, in considering all these aspects, it is not as if the point raised by my hon. friend has been left out. That is what I would like to submit before the House.

Subsequently also, in order to remove some of the difficulties, the State Governments have again been requested to take the necessary action. For example, the Government of Madhya Pradesh has amended the definition of the term 'employer' in section 2 (3), and have incorporated a new section 18A of the Act to enforce the liability of the principal employer as well as that of the contractor. After that, the Supreme Court judgment has come. But that does not matter. We shall see how the definition has to be amended.

There was also another case referred to by my hon. friend Shri S. M. Banerjee who is not here at this moment, and that was in regard to contract labour, where the worker was entitled to the benefits of the provi-

dent fund. But the Supreme Court has held that the contractor was in no way liable, because as between the main employer and employee, there was no relationship of employer and employee, since there was a contract in between, and, therefore, the benefits of the provident fund were not available, and the contractor was not at all liable to make those contributions. But that was a different case altogether. That had nothing to do with the present case.

The case here relates to a situation where it has been stated that a *beedi* worker is not a worker according to the definition. But I may assure the House that we shall take suitable action to amend the definition, if necessary, so that the *beedi* workers also are benefited.

Then, the Government of Madras have enacted special legislation for the *beedi* industry, known as the Madras Beedi Industrial Premises Regulation Act, 1958, providing for licences for all *beedi* industrial premises. The Governments of the States in South India, namely Kerala and Mysore are also contemplating legislation on the lines of the Madras Act.

Also, in an informal meeting held in 1961, the position was reviewed again, and we again requested the States to fall in line with the recommendations so that the hardships that have been experienced by the *beedi* workers could be eliminated.

After all, we should realise that this is an unorganised industry. In the case of an organised industry, there is a regular trade union, and they have got the collective power and they can negotiate or bargain with the employers. That is feasible in an organised industry, but here we have to deal with the matter more carefully, and we have to see that the interests of these workers are better preserved and that they are not unnecessarily put to hardships, and that should be done by adopting all practical measures.

So far as the various amenities and facilities are concerned, they are covered by the various provisions. In respect of whatever is missing such as in regard to the definition etc. I can assure my hon. friend that Government will look into the matter.

Shri Umanath: What about the latest method adopted for escaping the provisions of the Act within the State by resorting to L-2 licences?

Shri Hathi: We shall take that also into consideration. Somehow or other people try to evade even the best of laws. We shall look into that matter also. Therefore, I would assure the House that we are mindful of the interests of the beedi workers, and we shall take steps to remedy the defects by suitable legislation.

I hope that in view of this assurance, my hon. friend Shri A. K. Gopalan will withdraw this Bill.

Shri A. K. Gopalan: As far as the condition of the beedi workers is concerned, the hon. Minister also has admitted whatever I have said in this regard, and he has told us that Government are considering the whole matter. I only want to know from the hon. Minister what difficulty there is in having an all-India legislation of a comprehensive nature. The hon. Minister has not touched this point at all, because he has said that today this industry is an unorganised industry.

I would submit that it would be unorganised, because when once you try to organise it what will happen is that there will be no factory. Suppose you try to organise a factory and apply to it the Minimum Wages Act, at once the factory will disappear, and the contract system will come in. Eight or nine people would function as agents, and they will come in place of the factory. That is the reason why this industry is not able to organise itself, because the moment organisation is done, where there are factories, they would cease to be factories. The workers feel

that even if we try to organise them on a trade union basis, they would not be there in the factory, and, therefore, it is perhaps better to leave it as it is.

As far as the difficulties are concerned, if the hon. Minister could give us an assurance that within one year all the States would be asked to have legislation in this regard...

Shri Hathi: Yes.

Shri A. K. Gopalan:...then I would welcome it; and if the States do not have any legislation on this basis, then the Central Government must see that they bring forward a comprehensive legislation.

Shri Hathi: In fact, we have asked the State Governments to take action. But, some States have said, for example, that they have no problem at all in the beedi industry. So, where such problems are not there, they need not have any legislation. But we shall again write to the States that they must have suitable legislation.

Shri A. K. Gopalan: There are two things in this connection. One is that there should be legislation in all the States, which is not the case at present. Secondly, even if there are legislations, I am afraid the implementation is not there, because it is not effectively enforced. So, I would request the hon. Minister to examine the working of the legislations in the various States, see how they are implemented, and then bring forward a comprehensive all-India legislation. After all, the question today is not whether there must be an all-India legislation, because we say that there must be a comprehensive legislation. For, we find from our experience of the last several years that even in the States where such legislation is there, the implementation is not effective. Therefore, Government should look into this matter and see that this sweated labour is protected, because it can no longer afford to wait.

[Shri A. K. Gopalan]

If the hon. Minister is prepared to give us an assurance on these lines, then I shall certainly be prepared to withdraw the Bill, because I know that there is no use of putting this Bill to vote, and I had brought this forward only to draw the attention of Government to this matter because it is high time that something is done to improve the conditions of these workers.

Shri Hathi: If the hon. Member requires any assurance, I would say that we shall see that the condition of the beedi workers is improved by suitable legislation in the States.

As regards all-India legislation—take for example, the question of fixing wages, different wages have to be fixed according to various localities. Perhaps legislation is not the remedy for it. The remedy is to have a joint board of neighbouring States, four or five. They can fix the rates, decide the conditions etc. I can say here and now that we shall have such joint boards for three or four neighbouring States. The question is of migration and other things.

Shri A. K. Gopalan: Also implementation.

Shri Hathi: We have already decided to have joint boards of neighbouring States.

Shri Narendra Singh Mahida: May I seek some information? There are various tobacco associations in the country. Can you not persuade them, if they do not come under the Factories Act, at least on humanitarian grounds to pay heed to you?

Shri Hathi: The point here is that there are certain provisions which are covered in the Factories Act. That they are bound to observe. The question is of fixing the rate of wages. If rates are fixed higher in one area as compared to a neighbouring area,

then there is the question of migration. Therefore, it is that three or four neighbouring States would have a joint board. We have already done that. They can consult the employers' organisations and workers' unions or individuals and then have a wage fixing machinery which will look into these things. We will have those joint boards.

Shri A. K. Gopalan: This is the second time I am bringing this matter to the notice of Government. In view of the assurance of the Minister that their conditions will be looked into and also in view of his statement that certain things have already been discussed and he will take action, I beg leave of the House to withdraw the Bill.

Mr. Deputy-Speaker: Has the hon. Member leave of the House to withdraw the Bill?

Some Hon. Members: Yes.

The Bill was, by leave, withdrawn.

15.33 hrs.

CONSTITUTION (AMENDMENT)
BILL*

(Amendment of articles 136, 226 etc.)
by Shri Shree Narayan Das.

Shri Shree Narayan Das (Darbhanga): May I seek your indulgence to introduce my Bill?

Mr. Deputy-Speaker: He was absent when called.

Shri Shree Narayan Das: I was in a meeting of the Estimates Committee.

Mr Deputy-Speaker: He may move for leave to introduce it.