

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the East Punjab Ayurvedic and Unani Practitioners Act, 1949, as in force in the Union territory of Delhi, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: We will take up the clause-by-clause consideration of the Bill.

Clause 2— (Amendment of section 16)

Amendment made:

Page 1, line 13,—

for "1962" substitute "1963". (3)

—(Dr. D. S. Raju)

Mr. Deputy-Speaker: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3— (Amendment of section 34)
Amendment made:

Page 2, line 8,—

for "1962" substitute "1963". (4)

—(Dr. D. S. Raju)

Mr. Deputy-Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Clause 1— (Short title and commencement)

Amendment made:

Page 1, line 4,—

for "1962" substitute "1963". (2)

—(Dr. D. S. Raju)

Mr. Deputy-Speaker: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1,—

for "Thirteenth" substitute "Fourteenth". (1)

—(Dr. D. S. Raju)

Mr. Deputy-Speaker: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

Dr. D. S. Raju: I beg to move:

"That the Bill, as amended, be passed".

Mr. Deputy-Speaker: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

13.37 hrs.

INDUSTRIAL EMPLOYMENT
 (STANDING ORDERS)
 AMENDMENT BILL

The Deputy Minister in the Ministry of Labour and Employment and Planning (Shri C. R. Pattabhi

Raman): Mr. Deputy-Speaker, Sir, I beg to move:

"That the Bill further to amend the Industrial Employment (Standing Orders) Act, 1946, as passed by Rajya Sabha, be taken into consideration."

This is a simple Bill and I shall not take much time of the House. At present, some difficulty is being experienced in enforcing the provisions of the Industrial Employment (Standing Orders) Act, 1946 in the establishments which last for short durations. The formalities regarding submission of the draft standing orders and the proceedings for their certification take some time and by the time the certified standing orders become available for enforcement, some of the establishments, particularly those of contractors, cease to exist. It was suggested in 1961 that the Act might be suitably amended so as to make the Model Standing Orders framed by the appropriate Government operative in all industrial establishments covered by the Act until such time as the standing orders are certified for the establishments concerned. The State Governments were consulted and they favoured the proposal. The matter was placed before the 20th session of the Standing Labour Committee held in October 1962. The Committee approved the suggestions for amendment of the Act. Hence this Bill.

Opportunity is also being availed of to amend the Act in respect of certain other matters which are of a clarificatory and formal nature. A provision in the Bill is to amend the definition of the term "appellate authority". In the existing Act, it has been defined as the Industrial Court, wherever it exists, or in its absence, an authority appointed by the appropriate Government. Since there is no Industrial Court set up by the Central Government, the Chief Labour Commissioner

(Central) was appointed as the appellate authority in the central sphere establishments throughout the country. It has been interpreted in one of the judgments of the Industrial Court, Bombay, that the Industrial Court, Bombay constituted under the Bombay Industrial Relations Act, 1946, is the appellate authority in respect of all industrial establishments situated in the State of Maharashtra, even if the appropriate Government is the Central Government and as such, the notification of the Central Government appointing the Chief Labour Commissioner (Central) as the "appellate authority" in respect of undertakings in the central sphere, has been held to be invalid to that extent, by that Court. In order, therefore, to clarify that the jurisdiction of the State Industrial Courts is restricted only to establishments falling within the State sphere, it is proposed to amend section 2(a) of the Act as in the Bill.

Another amendment is with regard to the procedure for submission of applications for modification of certified standing orders. At present, the parties have to submit to the certifying officer five copies of the proposed modifications of standing orders along with five sets of the whole of the certified standing orders. This procedure is considered to be cumbersome and expensive at least for the workers to comply with. In order, therefore, to simplify it, it is proposed to amend section 10(2) of the Act so as to enable the employer, or the workman, to submit only five copies of the proposed modifications of Standing Orders.

The other amendment proposed in the Bill is to authorise the certifying officers and the appellate authority to carry out any corrections in their orders arising from any accidental slip or omission.

As regards the last amendment proposed in the Bill, I may explain that under the existing section 14A of the

Act which was inserted in May, 1961, only the Central Government is empowered to delegate any of its powers to its officers and to the State Government and their officers. It has been suggested that the State Governments may also be empowered to delegate any of their powers to their officers. Accordingly, the existing section 14A of the Act is being substituted as in the Bill.

With these remarks, Sir, I move that the Bill be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Industrial Employment (Standing Orders) Act, 1946, as passed by Rajya Sabha, be taken into consideration."

Shri Dinen Bhattacharya (Serampore): Mr. Deputy-Speaker, Sir, this is a very small amendment to remove the difficulty experienced in the provisions of the Standing Orders Act in the case of establishments which are new or which exist for short durations, and regarding certain matters which are of a clarificatory and formal nature.

Sir, I would have very much liked to welcome this amendment. But the attempt on the part of the Ministry is so half-hearted and belated that I cannot do so. It is good that at last, after two years from the date this recommendation was made by the Tripartite Conference, this amendment has been brought to plug the loopholes of the Act. But my point is, this was an opportune moment for the Government to review the whole Standing Orders Act itself—the parent Act—and to see what are the lacunae due to which the workers in general, both in the public sector and in the private sector, are suffering. They should have then tried to remove those lacunae and a comprehensive amendment of the Standing Orders Act and the model rules should have been brought.

It is very peculiar to note that the Government has taken the plea that this was a suggestion by the Tripartite Conference. May I take the opportunity to ask the Deputy Minister as to how many recommendations of that body have so far been considered by the Government or whether any credence has been given to those recommendations?

Before I deal with other matters, I must point out that I am unable to understand—the Minister has also not cleared it in his speech—why Bombay, Gujarat and Madhya Pradesh have been still excluded from this Act. It may be that there were reasons when the original Act was passed to exclude those areas as separate laws were prevailing there. But now, after so many years, why should separate laws or Acts be permitted to operate in those areas? My conclusion is this, that the Government has intentionally maintained a position in which it is always found that a State within a State is existing and an alternate State Government is being allowed to function in the domain of labour and industrial relations. This should have been looked into by the Government. The DIR and the Bombay Industrial Relations Act are prevailing in Bombay, and by virtue of it only the unions which are recognised can put forward their claims if they have got any complaint or anything to say with regard to these Standing Orders. That position is still maintained. The same position is there in Madhya Pradesh and Gujarat. If a review is now made it will be seen that because of this, large number of disputes are taking place in those areas and industrial relations in those areas are really creating difficulties in the process of maintaining peace and good relations between the workers and employers. This fact should have been taken into consideration and adequate provisions made in the Bill so that the workers there are in a position to come forward with their suggestions if they have anything against this Act. They should be in a position to bring up such things on an individual basis or

[Shri Dinen Bhattacharya]

through their unions which are registered unions in those areas. This is my first point of grouse and this should be looked into by the Government.

Then, Sir, I must take this opportunity to bring out in detail certain things which the Government itself should have looked into while bringing forward this amendment. Take, for example, the model standing order rules of the Central Government or of the State Governments. If we scrutinise them, it will be seen that practically no protection is given to the worker in respect of his employment by these rules. There are many provisions which have to be re-examined. There is a clause in the model standing order rules which provides for disciplinary action for misconduct and certain other acts which come under the category of misconduct. There you will find that wilful insubordination or disobedience is also mentioned. Taking advantage of this provision of "insubordination or disobedience" it is often found that whenever a management wants to terminate the services of any person, it takes shelter under this provision and charges anybody with acts of insubordination without giving him any opportunity to defend himself through his union or through a lawyer and his services are dispensed with at the sweet will of the management.

Mr. Deputy-Speaker: The hon. Member should try to conclude now.

Shri Dinen Bhattacharya: Sir, I hope I can have some more time because two hours are allotted for this Bill.

Mr. Deputy-Speaker: There are still four more speakers. Only one hour has been allotted for this Bill. The hon. Member cannot have any more time. He must try to conclude now.

Shri Dinen Bhattacharya: Then, terms like "riotous behaviour" are there. In many cases, when any worker takes a leading part in any trade union activity, the management

often books him up and brings a charge-sheet against that worker, because the terms used here are "riotous behaviour" "disorderly behaviour during working hours at the shop or any act subversive of discipline" and it is not specifically mentioned as to which of the acts will come under these categories. The result is that any worker who has got anything to say against the management is charge-sheeted and even dismissed. I know so many cases where this has happened. Therefore, unless this Act and the model rules are changed or modified, or a comprehensive amendment or a separate Bill is brought before the House to remove all those difficulties, the workers will continue to be victims of harassment on the part of the management with no remedies of their own.

Then I will come to another point. Since Government is giving so many promises and assurances, people in general think that Government is the model employer. But, in actual fact, the position is just the opposite. Workers in the public sector undertakings are treated shabbily. None of the labour laws is brought into force in those undertakings. Even those laws which are in force are not respected by the management. In Durgapur even the statutory body like the Works Committee has not been constituted. The position is no better in other public undertakings.

Mr. Deputy-Speaker: He should conclude now.

Shri Dinen Bhattacharya: I will take only another minute or two.

Mr. Deputy-Speaker: He has already taken 13 minutes. So, he should conclude.

Shri Dinen Bhattacharya: I will conclude just now. I would like to know the fate of the recommendations of the tripartite conference. The last tripartite conference had decided that the method of calculating the cost of living index will be reviewed so that

Amendment Bill

the workers may get some benefit on the basis of the actual rise in cost. I would like to know when it will be implemented.

Here I would like to take this opportunity to bring to the notice of the hon. Minister one provision of this Bill which says:

- (i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 apply; or
- (ii) any industrial establishment to which the provisions of the

What is happening in Madhya Pradesh and Bombay? The hon. Minister knows better than me that in Madhya Pradesh no Central legislation applies to any of the public sector projects. For instance, the Heavy Electricals have no standing orders and all laws, orders or rules applicable to other industrial workers in Madhya Pradesh are made applicable to Heavy Electricals. According to the Madhya Pradesh Industrial Relations Act, or even the Madhya Pradesh Industrial Employment (Standing Orders) Act, all the employees working in the public sector corporations of the Government of India in Madhya Pradesh would come under the operation of those enactments, and not under Central legislation even though they are Central Government employees for all purposes. Recently, there was a convention in which the meagre demand made was the slogan "apply Central legislation to Central Government employees". Though there are 8,000 to 10,000 employees in this factory, still the model standing orders are not made applicable to them with the result that every minor matter has to be taken up by the labour union with the management. In this case, the labour union, the so-called labour union, is affiliated to INTUC, and here, without casting any aspersion or attributing any motive to this big organisation, I would like to say that in my opinion this union has no following there but because the Madhya Pradesh Government, the Madhya Pradesh Labour Minister wants to boost up his own organisation, this union has been recognised with the result that the

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employees there have collected 10,000 genuine signatures with their ticket numbers, address etc. and submitted a memorandum to the Prime Minister in the month of September with a request that the question of recognition should be reviewed. They have only said that the question should be reviewed. They did not say that the other unions should be granted recognition; they only said that the recognition which has been granted to non-existing unions or unions which have no following, according to them, should be reviewed. I know that my statement will be challenged, will be contested, but from my experience I can say that this union is not a representative union. But according to the Madhya Pradesh Industrial Relations Act which is supposed to be the twin brother of the Madhya Pradesh Industrial Employment (Standing Orders) Act, the other union has been recognised, with the result that unfortunately industrial relations which were very good are disturbed and in all likelihood people may resort to direct action. I do not threaten this House or the hon. Minister for whom I have the greatest regard; but it is bound to happen when the really representative union is not granted recognition.

14.00 hrs.

Then, the Bill says that wherever the Bombay Industrial Relations Act applies, this will not apply. This is something surprising. You remember, Sir, that when the Bombay Industrial Relations Bill was before the Bombay Assembly, there was a spate of strikes and demonstrations. Everywhere processions were taken out to demonstrate against this black Bill. This was known as the 'Black Bill' and copies of this Bill were burnt openly on the streets of Bombay. But still the majority that the ruling party commands either in the States or at the Centre passed this Bill. So, it is natural why the Centre should come to the rescue of the Maharashtra

Government and say:

"any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 apply"

this will not be made applicable. That means, they can have their own standing orders and their own set of rules.

We expect the workers whether they belong to Bombay, Madras, Kanpur or anywhere in India to behave in the same fashion, to work for the country, to produce more and save the country from a financial crisis and to defend the motherland. If that is the spirit, if that is the central slogan given by our Prime Minister or by the hon. Labour Minister, why should there be discrimination between one worker and another merely because the Labour Minister of Bombay is powerful or because Madhya Pradesh does not want the Centre's intervention in any matter? Is that the reason why the Central legislation is not applicable in Bhilai or in any other place? If that is so, it is a sad commentary on industrial relations.

I am sorry to refer to this matter at this time. I think this Bill could have been made non-controversial if these two things had been omitted. I request the hon. Minister to consider these suggestions of mine and give an assurance in this House that there will be no discrimination between one worker and another. That is against the spirit of our Constitution. If we want to make the worker feel that he is Indian first and a Bombaywalla or a UP-wallah last, we will have to bring him under legislation which does not discriminate between one worker and another. I have mentioned the question of Heavy Electricals because they have met the hon. Minister, Shri Hathi, and the hon. Minister, Shri Subramaniam and they wish to meet the hon. Prime Minister. A union having a membership of 8,000 or 9,000 cannot be discriminated against and a union which does not exist or which has no

following at all cannot be favoured. Therefore, I take this opportunity to request the hon. Labour Minister again to hold a referendum in Bhopal or in Bhilai. The union for which we stand is not affiliated to the AITUC. It is run by the employees themselves. There is no outsider in Bhopal. The union is run by those artisans who, after taking training there, have become artisans. If that particular union, namely, the Heavy Electricals Servants Trade Union, does not secure 91 per cent votes, I will dissolve that union. If the so-called recognised union of the INTUC does not secure even 11 per cent votes, let them dissolve that union. It is an open challenge and I will request the hon. Minister to accept this challenge, hold a referendum or a plebiscite and see which union is to be recognised.

With these words, I wish to congratulate the hon. Minister for bringing forward this Bill but because it is with all these limitations, unfortunately, my congratulations are also limited.

Shri V. B. Gandhi (Bombay Central South): Mr. Deputy-Speaker, one thing can be said about these industrial employment standing orders and it is that they can be as good as their implementation. If they are implemented effectively and in the right way, they will serve the purpose for which they are brought into existence. If there is sympathy and understanding prevailing in the relationship of the two sides, that is, the employers and labour, if there is a spirit of fair deal prevailing in their mutual relationship, it would be unnecessary to have any such legislation really. But that would be too much to expect knowing human nature as we do and it will be certainly necessary ultimately that we should have an Act of this kind and that there should be provisions for its enforcement effectively and without undue hardship to any of the two sides.

Having heard Shri S. M. Banerjee, it is difficult to dispose of this subject without giving some consideration to what is happening in the public sector. As we all know, the public sector is now having an increasing share, as an employer, in the employment of the country. It is a large employer of labour and therefore its attitude and anxiety to implement the requirements of these standing orders have much to do with the general feeling of contentment in the industrial world. What we have heard, not from Shri S. M. Banerjee but from other sources, and have constantly been hearing is that conditions, in spite of the implementation of these standing orders, in the public sector are not all that can be desired. I hope, I am wrong and I also hope that what I have heard is not true. Even responsible trade union organisations, like, the INTUC and some others have been finding it difficult to carry on their legitimate trade union activities to their satisfaction. I am not trying to apportion any blame between one party and another, but I shall certainly want to say that there is a special obligation on the public sector for trying to behave in a manner that will make it a model for the other sector. In this case I would say that the responsibility of the public sector is indeed very great and, as they say, Caesar's wife should be above suspicion.

As for the other provisions in this Bill, I suppose that they are quite necessary and are going to be helpful in carrying out the objects of the standing orders. The chief object in this Bill seems to be to get over the difficulty that they have been experiencing in enforcing the provisions of the orders in establishments which last for a short duration. Even before the certification is obtained these establishments usually go out of existence. A large majority of them consist of contractors' establishments. Now, what is sought to be done is to make the model standing orders framed by the appropriate Government operative in such cases and till

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such time as the standing orders are actually certified.

There are some other provisions too. For instance, there is the question of the definition of the term "appellate authority". Even to a layman like me, it was quite apparent that that definition was wanting somewhere, and it would some day be challenged in a court of law, as ultimately it was. With this new amendment of section 2(a), I am sure that the position will be set right.

Then, certain other matters of difficulty have been smoothened out, as, for instance, by amendment of section 10(2), the procedure for submission of applications for modifications of certified standing orders has been made more orderly. Under the new provision, it would not be necessary to supply five copies of the full sets of the whole certified standing orders, but it would be enough to supply only copies of the modifications desired.

Finally, it is only right that this provision should be included now in the amending Bill, that is, about the powers now given to the State Governments for delegating their powers to their officers.

Shri A. N. Vidyalkar (Hoshiarpur): I welcome the Bill, although I feel that it is a very much belated Bill, because the original Act was passed in 1946, and since then difficulty was being experienced in the case of those establishments which did not get the standing orders certified. Generally, the tendency in the case of the employers was that they deliberately delayed matters so that a state of lawlessness and anarchy could continue to prevail in their establishments. Therefore it was in the interest of both the parties, the employers as well as the employees, that there should be some law under which their mutual relations could be properly regulated, and that was the

purpose of the main Act. The schedule is comprehensive enough, and it includes all those day-to-day matters that are likely to come up and that are likely to raise controversies between the employers and employees. I think that it is in the interests of both the parties that the standing orders should be properly made.

The amendment now brought forward plugs the loopholes that remained, and it provides that even if an employer does not help in the matter and does not get the standing orders certified, the model standing orders would be applied.

The two hon. Members who spoke first said that this Act would not apply to Madhya Pradesh, Gujarat and Maharashtra. I do not know whether my hon. friends have studied the Acts of Madhya Pradesh, Gujarat and Maharashtra. If they had read them, they would have agreed that those Acts already covered the loopholes that are now being plugged through this Act, and in that sense, really, they are better Acts. Therefore, the criticism that was made by them in this behalf was unnecessary.

The hon. Member who spoke first also said that in the law it should have been provided as to which charges could be brought against the workers and which charges could not be brought against the workers. In fact, if it could be done, it would have been better to do it, but then it is not possible to include all such details in this Bill. As I have stated already, the schedule to the Act is wide enough and it covers most of the points.

With regard to the public sector, I agree that the public sector has failed so far, generally; I do not say that every establishment has failed, but generally the public sector has failed in having these standing orders. This amending Bill would cover them also. After this amending Bill comes into force, even the public sector establishments, as soon as they were

established, will have model standing orders applicable to them. The model standing orders would apply to the workers in those establishments also, and, therefore, that difficulty would be removed. Therefore, the criticism that has often been made in this regard has been met by this amending Bill.

But my only doubt is in regard to the amendment where it is provided that: notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the provisions of this Act shall apply to all industrial establishments under the control of the Central Government. The words 'under the control of the Central Government' are not very clear and they are vague and they might be subjected to various interpretations. Of course, certain establishments which were directly under the control of the Central Government might be included. But there may be others which may not be directly under the control of the Central Government. For instance, there are about 42 State-sponsored companies or undertakings that have been formed into public companies where Government are the majority shareholders, and they cannot be stated as being directly under the control of the Central Government. I do not know whether those establishments would be covered by this amendment or not. Therefore, a difficulty might arise in this regard. Similarly, there might also be certain other establishments which may not be directly under the control of the Central Government. Therefore, I think that it is better to make it clear what these words 'under the control of the Central Government' mean. Otherwise, it might give some loophole and create difficulties in certain public undertakings.

My hon. friend Shri S. M. Banerjee unnecessarily imported a controversy which was not germane to the subject that we were discussing. After

all, this is a long controversy amongst the various trade unions as to which trade union should be recognised and which trade union has the right and which has not. Whatever that may be, that controversy is practically everywhere. And whenever some labour legislation is discussed, my hon. friend directly or indirectly always imports that controversy. I feel that this is not the proper forum for discussing those controversies; the proper forum is the tripartite conferences. In fact, he referred to Nainital decisions. There some code was established. If there are any difficulties, those points should be discussed at such conferences. I think that point is not connected with the subject-matter of the Bill.

Finally, I want to say that when amendments are brought in, the Ministry should examine the whole Act so that as a result of past experience if any more amendments are found necessary, they may also be incorporated in the proposed amendments, making it a comprehensive measure. My point is that legislation should not be brought in in a piecemeal manner.

I feel in the original Act some more amendments were necessary. The original Act was passed 17 years ago. Subsequently, there were some amendments. But now times are changing, and in view of changing times and changing conditions, some new approach is necessary. I do not want to quote because my time is up; but I can point out instances where improvement was necessary. On previous occasions also, I have pointed out to the Labour Ministry that whenever they contemplated any amendment, they should examine the whole Act and bring forward a comprehensive measure, so that all the amendments that are necessary find a place in the Bill.

Mr. Deputy-Speaker: The hon. Minister. Shri Vidyalkar has already replied to the points.

Shri C. R. Pattabhi Raman: I do not want to take much time. With regard to the Bombay Act, it also has its operation in so far as its jurisdiction is concerned. That position is being continued. That is what I want to state in reply to Shri Banerjee.

With regard to recognition of unions, in view of what has fallen from you, I do not think I need say anything about it.

With regard to the Central Act, concerning removal of doubt about its applicability to the Central Government public sector undertakings, the proviso to clause 2 is there. The whole purpose is that, namely, that the Central Act is applicable to undertakings in respect of which the Central Government are the appropriate Government, and the State Acts are applicable where the State Governments are the appropriate Governments.

I do not think I need say anything more except that the term 'under the control' has been purposely used to bring all public sector undertakings, whether departmental or company managed, within the central sphere. I may also indicate—if I may take the House into confidence—that the thinking in the Ministry is along the lines of having some sort of adviser for the public sector undertakings. A beginning has already been made. As I said in the other House, public sector undertakings have been brought in in tripartite meetings; their representatives are also there. So it is not as if they can escape the labour laws. For a period of time they may not have come within them completely, but that does not mean that they can escape. Actually, as I have indicated in the other House, there have also been prosecutions of public sector undertakings for failing to comply with labour laws.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Industrial Employment

(Standing Orders) Act, 1946, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments. The question is:

"That clauses 1 to 7, the Enacting Formula and the Long Title stand part of the Bill."

The motion was adopted.

Clauses 1 to 7, the Enacting Formula and the Long Title were added to the Bill.

Shri C. R. Pattabhi Raman: I beg to move:

"That the Bill be passed."

The Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

14.25 hrs.

DEMANDS FOR SUPPLEMENTARY GRANTS (GENERAL), 1963-64

Mr. Deputy-Speaker: The House will now take up discussion* and voting on the Supplementary Demands for Grants in respect of the Budget (General) for 1963-64.

DEMAND NO. 1—MINISTRY OF COMMERCE AND INDUSTRY

Mr. Deputy-Speaker: Motion moved:

"That a supplementary sum not exceeding Rs. 8,78,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1964, in respect of 'Ministry of Commerce and Industry'."

*Discussed with the recommendation of the President.