

MR. CHAIRMAN : The question is:

"That the Bill be passed."

The motion was adopted.

16.27 hrs

SICK INDUSTRIAL COMPANIES
(SPECIAL PROVISIONS) AMENDMENT
BILL

As passed by Rajya Sabha - Contd.

[English]

MR. CHAIRMAN : Now, we shall take up further consideration of the motion moved by Dr. Abrar Ahmed on the 18th December, 1993.

(Interruptions)

KUMARI MAMATA BANERJEE (CALCUTTA SOUTH): Sir, I have given my name.

MR. CHAIRMAN : The Minister has not yet completely moved the motion.

[Translation]

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (DR. ABRAR AHMED): Mr. Chairman, Sir, Sick Industrial Companies (Special Provisions) Act, 1985 was enacted to timely detect sick and the industries likely to fall sick and to constitute a Board of experts to suggest remedial measures and other practical measures to revive the sick industries. As per provisions of this Act, Industrial and Financial Reconstruction Board (BIFR) and Appellate Au-

thority for Industrial and Financial Reconstruction (AAIFR) were set up and both started functioning w.e.f. 15th May, 1987 and April, 1987 respectively.

Since the operating of BIFR the rehabilitation work of sick industries is going on smoothly and systematically and since then many drastic changes have also taken place. As on November, 1993, 1418 sick industrial companies were registered with BIFR. Out of these 290 were not found suitable for revival and in other 124 cases, the concerned companies have prepared their revival schemes with the consultation of financial institutions. In 308 cases the BIFR has itself chalked out the rehabilitation schemes and approved them and in 250 cases BIFR has advised to liquidate them.

A number of difficulties were experienced during the implementation of the Act, and therefore, it became necessary to get the various provisions of the Act reviewed. In this connection we have consulted BIFR, AAIFR, RBI, financial institutions and trade and industry representatives. The recommendations made by the Estimates Committee of Lok Sabha in their report presented on 4th January, 1991 were also considered. Therefore, to expedite the revival of procedure of sick industries and to make more effective the functioning of BIFR and AAIFR and with regard to their structure and comprehensive provisions it is proposed to bring some amendments in the said Act.

The proposed amendments could be divided in three categories. In the first category the amendments are with regard to the jurisdiction and the objective of which in the detect the sickness of the company in the very beginning so that remedial measures could be taken speedily. It can be done by the changing the definition of the categories of the companies coming under the purview

of this Act or by extension of revival rehabilitation or option available for liquidation. Therefore in the proposed definition the prescribed period for registration of any 'sick industrial company' is being reduced from 7 years to 5 years and also the criterion to have incurred losses for the last two years is proposed to be dispensed with. Now any industrial company which is registered atleast for the last five years and whose net capital base has been totally eroded, will be assumed to be sick industrial company. Similarly in case of probable sick companies it is proposed to reduce the registration period from 5 years to 4 years. However, the standard of erosion of net maximum capital of the company will remain at 5 per cent. Proposed amendments will widen the ambit of the Act. In addition BIFR will also enjoy the right of effecting amalgamation of any sick company with any other company or revoking amalgamation to bring about retrieval. It is proposed to make a provision that BIFR can presume to have received 'mute a from any agency which does not send its reply to the draft revival scheme. This will ensure speedy settlement of the cases and flexibility in the measures being taken by BIFR for the rehabilitation and revival of the companies.

In the second category the proposed amendments related to augment the effectiveness of BIFR and AAIFR. This Amendment Bill will provide flexibility to BIFR in selecting operating agency, to liquidate probable sick companies in the beginning not having sufficient funds and to strengthen the hands of BIFR in the matter of probable sick companies. This Bill also propose to empower BIFR to give directions to the companies regarding settlement of outstanding liabilities and to confer powers on BIFR to monitor implementation of the schemes approved by it. In addition, it is also proposed to start 'single window scheme' for easy disbursement of loans for the speedy

implementation of rehabilitation packages after approval.

In the end it is proposed to remove some ambiguities and to strengthen internal co-ordination. Some provisions has been redefined or have been further clarified.

This Bill was passed by the Rajya Sabha on 20th August, 1992.

I request the House to consider the Bill.

MR. CHAIRMAN: Motion moved:

"that the Bill to further amend the sick Industrial Companies (Special provisions) Amendment Bill as passed by Rajya Sabha be taken into consideration."

DR. LAXMINARAYAN PANDEYA (MANDSAUR): Mr. Chairman, Sir, we are discussing a very important Bill. This Bill should have been introduced much earlier but Government has introduced it after a long delay. Probably this delay is due to the style of functioning of the Government. Such a important Bill is being ignored like this. It shows that the intention of the Government is not clean. Estimates Committee has also given his recommendations in this regard. Its report was presented in 1991 but the Bill has been introduced in 1993. Goswami committee has also made certain recommendations in this regard. Even after these recommendations the Government turned a nelsons eye and indulged in dilly dallying tactics. Better late than never. I would like to raise a few points in the House. The Hon. Minister has stated that the Sick Industrial Companies (special provisions) Act, 1985 was enacted to timely detect sick and probable sick industrial companies. Subsequently, BIFR and AAIFR were set up. I am distressed about it.

{Dr. Laomimarayan Pandeya}

Will the hon. Minister make it clear as to how many vacancies BIFR which he has just mentioned. You talk of speeding it up but no process is being initiated to expedite this work. This's why these vacancies exist and people are not willing to be posted on these posts. Then, when are you going to identify the sick industries and find out the possibilities of reviving them or whether any financial assistance can be provided to these industries. You have mentioned certain things. I would like to know how many vacancies exist in the Authority you have just mentioned and since when these vacancies exist and why were these not filled up? Since these vacancies were not filled up a situation has created that no work of the Appellate Authority is being done. The work is almost suspended and the Appellate Authority has become meaningless. That's why I want to know the number of existing vacancies and why these were not filled up and who was answerable for that. Please tell the number of posts of officers and employees or staff lying vacant in BIFR and the Appellate Authority. The objectives of the Bill stress upon 2-3 things, like, the merger of the sick industrial company with some other company with that company for financial restructure and thirdly, to revive it by providing it financial assistance. The delaying factor plays a very vital role because as a result of delay the losses of the company overrun the total cost of the company and things come to such a pass that there is no scope for revival. The losses are so much that it cannot be revived. The second problem pertains to banking. After going through the complete process in BIFR the Banking process starts and there are a lot of queries in Banks. I know, I have seen many cases in which the great number of queries have led to unexpected delays there are many sick mills like textiles mills, sugar

mills, jute mills or other industrial mills which are not completely sick and which can be revived but the unnecessary delays in the process of reviving the mills become much and by and by they reach such a stage that they cannot go on even if they are provided financial assistance. There are many such examples in Madhya Pradesh and you are also aware of them. There is Rajkumar Mills, Sajjan Mill which are on the verge of closure after remaining sick for long and I feel that if you had given a timely financial assistance then the things would not have gone to this extent.

Sir, today thousands of workers are on the roads and a question of their life and death has arisen. We had made proposals about certain mills, like there is a jute mill in West Bengal which is being run on co-operation basis. I feel that we would think about it if some sick units can be run on cooperative basis after its renovation. Some sugar mills which are on the verge of closure need to be renovated because the machines are twenty five to thirty years old and are not profitable any more. That's why there is need of renovation and modernisation. Their capacity needs to be increased but even this is being delayed. The procedural delays bring them slowly to the verge of closure by and by. I am bringing it to your kind attention that on the one hand our sugarcane growing farmers are agitated and the production of sugar is also being adversely affected.

A question had been raised on 17-3-91 in which you had mentioned about viable units, unviable SSI units and non SSI units. Now, I feel if you take every State separately, you will see the condition is very bad. There are 4,892 sick units in Assam and out of them 4,220 are non-viable units. The number of sick units Bengal is 30,748 and out of them 24,662 units are non-viable.

These data are very intimidating. What are the factors responsible for this sickness and whether anything has been done to find out such factors and these denote the fruitlessness of our industrial policy. I feel that if the sick units are identified and a timely assistance is given to these units then things can turn out fine and as I have just said sometimes the role of the State Governments is wrong. There are 185 non-SSI units and 107 out of them are non-viable. The number is 194 in Uttar Pradesh and 14 out of them are non-viable; in Madhya Pradesh the number of non-SSI is 41 and 31 out of them are non-viable. The number in Andhra Pradesh is 135 and 43 out of them are non-viable units. I want to go on reading it aloud. There are thousands of such units. The Central Government, financial organisations, banks and private sector have invested in these units. Some units are incurring losses due to unnecessary official delays. I have mentioned these 2-3 points which need to be considered.

You have brought this Bill and your intention may be good but a delay in the implementation can create such a situation and I feel you will not succeed in your objective.

I read in newspapers recently that hundreds of textiles mills have closed down in Bombay. A point was raised to review them. As per N.T.C., they want to close down some mills, not all, and they want to make some viable by merging them with other mills. But 4-5 years have elapsed and no action is being taken. A time-limit should be fixed by BIFR and within that period these units should get loans from banks and no loopholes should be detected otherwise it will lead to difficulties in their revival.

The increasing interest is also a problem for these sick units. You provide small

assistance which do not enable them to pay the interest.

You have carried out 2-3 amendments. You have carried out an important amendment in section 3, 18 and 19 which was essential and these amendments make this Bill more important. The sick units are being classified in three categories. One category is of sick units; the second includes those which are on the verge of being declared sick and the third category includes those units which are beyond revival. In my opinion, the recommendations of the Estimates Committee should be seriously considered. The Economic Times, dated 25th August carries what had been said by the Goswami Committee about BIFR:-

[English]

"The BIFR is unhappy with the Goswami Committee report on industrial sickness. It thinks the Committee has not done its homework properly, nor taken is called an "overall view" of the problem of industrial sickness. Thus, says BIFR, the Goswami Committee puts unduly great stress on debt recovery for secured creditors. It also says that this approach underplays other issues and extenuating circumstances..."

[Translation]

I would like to attract the attention of the Government to this also. I would like to attract the attention of the Government to the answer given on 17.3.93 also:

[English]

(3) The banks have also been directed by the Reserve Bank of India to formulate rehabilitation packages for the revival of potentially viable units. The banks and fi-

[Dr. Laxminarayan Pandeya]

financial institutions evolve rehabilitation packages for the revival of sick units."

• [Translation]

As I had said in the beginning also, the directions are correct, these should be followed. Shri Satya Narayan Jatiya belongs to the Ministry of Labour. He will express his views on this. I would like to draw the attention of the Government to only 3 things - they should work according to rules regarding the Appellate Authority and its powers, secondly, the lacunae which is obstructing the effective functioning of BIFR and thirdly, all the things should be decided within a fixed time-limit without delay and sugar industries are getting wiped out in the country, especially in Madhya Pradesh. Save them from this danger. The jute industry entails different kinds of problems and there are some units in various industries which are facing crisis. That's why, a great care should be taken to save these sick industries and to make sure that the jobs of the people are protected. The compulsory retirement and voluntary retirement programmes are not going to be effective. The workers want to earn a living. And it can be possible only if these industries are saved. I believe all the efforts made in this direction will be fruitful. I conclude with these words.

[English]

CHARLES (TRIVANDRUM): Sir, I rise to support the Sick Industrial Companies (Special Provisions) Amendment Bill. The main feature of this Bill is to make certain amendments in the provisions of the 1985 Act so as to enable a quicker detection of potentially sick industrial companies and revive them. Before coming to the specific

provision of this Bill, I may be permitted to draw your kind attention to a very major area which is not covered by this Bill. While going through the heading of the Bill, namely, Sick Industrial Companies (Special Provisions) Amendment, it gives the inference that every industrial unit will come into the ambit of this Bill. But that is not the position. Only large and medium industries come under this Bill. When 1985 Act was passed, I was one of the Members who pointed out that there should be one machinery for the revival of small scale industrial units and while replying to that Bill, the then Minister categorically assured that there will be some machinery established for the revival of small and tiny industrial sector. But so far, no effort has been made and there is no such machinery. I humbly point out that there is a larger area where there are lakhs of small industries in this country where several lakhs of people are employed. Employment opportunities are only in the small industrial sector but that is totally forgotten. Financial assistance is one of the problems which they are facing. There is Small Industries Development Bank of India, SIDBI. When that Bill was passed, an assurance was given that even though other financial institutions will be financial the small units, this SIDBI will give special attention in financing small units. That purpose has not been served. In Kerala, there is only one unit of this Bank, namely, in Cochin. When there is only one branch functioning, small entrepreneurs are find it difficult to get loan from there, particularly when they require loans from Rs. 50,000 to Rs. 1,00,000. I have been suggesting that in every revenue district, there can a be tie-up of the financial institution there with that of SIDBI so that small industries can get financial assistance. But that has not been done. In coming to the special feature of Kerala, I may mention that even for a loan of Rs. 25,000, collateral security is needed. My information is that no

other State is insisting on collateral security for an amount of Rs. 25,000.

In the last Session of the Parliament, I brought this to the notice of the House through a submission under Rule 377. I also brought it to the notice of the hon. Finance Minister. So far, no reply has been given. I feel my State, Kerala is discriminated against. A poor person who wants to set up a small unit and requires Rs. 15,000. cannot get the loan if he cannot give collateral security. Whereas in other parts of the country, in other States, no bank is insisting on this collateral security. I request that the case of Kerala may also be considered on the same lines. If my information is correct, this discrimination should immediately be removed.

Sir, I will not take much time of the House. I would just like to highlight some of the major points. There are many reasons for the sickness of industry in the small sector. Want of raw material, want of financial assistance at the appropriate time, marketing, labour problems, want of technical knowhow, power shortage, etc., are factors which contribute to the sickness of the industry. But one of the main things is the non-availability of funds at the appropriate time. Financial institutions are not at all helpful to the smaller units.

There is yet another problem in respect of marketing. Earlier there was a rule whereby some price preference was given to the smaller units by Government and quasi-Government institutions. Now, that rule is no longer applicable. I am not saying that subsidy should continue to be given. There need not be any price preference. But, if the product's quality is good and price is fair, the requirement of the Government should be met by placing orders on the smaller and tiny units. You need not give price preference

but you may show them some preference by placing your orders with them. Even in the case of purchasing done by the Government, there delay in making payments to these small and tiny units. This delay also contributes to sickness of the industry. We have taken cognizance of this aspect too and we have passed a Bill in the last session for paying interest on delayed payments. I was one of the Members who participated in the discussion on that Bill and I supported it. I thought that it would go a long way in helping the industry. But it is not at all effective because no small unit is bold enough to go to a court of law because of the time to be taken and expenses to be incurred. If somebody were to go to a court of law and if the purchasing authority happens to be the Government, they will cancel the whole purchase order and as a consequence, the institution suffers. I can give the example of some units which cater to the Electricity Boards. There are some small units which make cables. Only the Electricity Boards are the buyers. The Kerala State Electricity Board has to pay Rs. 58 lakhs to one of the units. They have not paid the amount and they are paying monthly interest. If the small unit goes to the court, they will get a decree for repayment of Rs. 58 lakhs along with the bank's interest of 5 per cent. But the moment they go to the court, the orders will be stopped and without orders, the unit will be forced to close. Here I request that one provision should be added to the Bill that if there is delay in payment, it should be mandatory that the payment of the dues should be done along with penal interest of five per cent. Last time, we passed a Bill on recovery of dues. I said that it was a very laudable piece of legislation.

Even in this Bill, I may point out to clause 6:

"In Section 17 of the principal Act, -

will be (a) in sub-sections (1), (2) and (3) for the words "make its net worth positive" wherever they occur, the words "make its net worth exceed the accumulated losses" shall be substituted;

2. Here I would suggest that 'accumulated loss' should include interest. I can point out several instances where if a person takes Rs. one lakh and if the industry becomes sick, and if nothing is done, after ten years, that one lakh of rupees becomes more than rupees ten lakh. The accumulated loss becomes Rs. 10 lakh.

Under no circumstances, it would be possible to make this industry viable. In the case of large industries, it may be several crores of rupees but in the case of small industries the amount would be less. So, I do not think that Clause will be helpful for the industry. The main change that would be helpful is Section 2 (c) viz. definition of Sick Industrial Companies. The limit has been reduced from seven years to five years. I support that. At least, now there is a Machinery to take care of really sick industries. To that extent, I support this Section.

Then, you take Page 4 of this Bill. You take Section 18 (A). Here it is mentioned that a Notification has to be given in the newspapers. I welcome will become more transparent so that the people are really interested in industry can understand what is happening there. There will not be wishy dealings. Now, you come to Page 5. A new Section has been added. This is also acceptable to us. Because, the liability goes to the creditors, employees, etc. of the sick company. So, there will be accountability. It will help in proper functioning of the companies.

Sir, these are main comments on the

provisions of the Bill. Whatever I have stated earlier regarding small industrial sector may be given due consideration.

Under the Industrial Policy of 1980, about 830 items are reserved for the small industries. Here, there is an attempt to shorten the list. That will ruin the small and tiny industrial sectors of our country. I request the Government that under no circumstances, those items which are now reserved for the small industries shall be removed. It is because multi-national companies are coming. The fear is that the small and tiny sectors will be wiped out. That is the only sector which gives employment opportunities. There are agro-based companies. So, I request the Government that the care that has been given to the larger companies shall also be extended to the small and tiny units so that the small industrial sectors are taken care of.

With these few words, I support the Bill.

Thank you for giving me time to speak.

[Translation]

SHRI RAM KRIPAL SINGH (PATNA):
Mr. Chairman, Sir, I support this Bill. Today due to the situation created by the financial institutions many industries have been closed. Particularly, I would like to talk about my own State Bihar. The condition of small scale industries in Bihar is very miserable. Many industries have been lying closed there for a long time. Due to closure of these industries many people have been rendered jobless. I respect the sentiments of Shri Charles and support his views. He stated that attention needs to be paid to these sick industries. There are large number of small and medium scale industries in our country.

17:00 hrs ...

Many people get employment in these small and medium scale industries. But these small and medium scale industries are ruin with the help of the loans advanced by the financial institutions. But there are legal complications which cause delay in advancing loans to these industries which results in their closure. Therefore, it is the need of the hour that taking into account the importance of small and medium scale industries, the Government should reduce the legal complications and give relaxation in the rules of the loans so that the existing large number of small industries in the country could be revived and the people who have been rendered jobless, may get their employment in these industries.

Sir, I would like to submit that ours is a poor country and the lower income group people live here. They have little capital and they strive hard to set up their own small scale industries. But due to lack of co-operation from these financing agencies and small scale industries are being closed down. Therefore, Financial Institutions should finance those small scale industries particularly who are on the verge of closure. All-out efforts should be made to assist them for their revival.

[English]

MR. CHAIRMAN: It is now 5'o clock. You can continue next time.

17.02 hrs

DISCUSSIONS UNDER RULE 193:
INCREASING POPULATION IN THE
COUNTRY - Contd.:

[English]

MR. CHAIRMAN: The House shall now

take up further discussion on the situation arising out of the increasing population in the country and measures taken by the Government to check the same raised by Shri Ram Vilas Paswan on the 17th December, 1993.

Dr. Kartikeswar Patra was on his legs. The time permissible is two hours; time already taken is one hour and 37 minutes. So, the balance time is only 37 minutes.

DR. KARTIKESWAR PATRA (BALASORE): Mr. Chairman, I had already started discussing on this topic and had stated that every year we are adding more than two crores to our population. This is a grave situation.

The Writer of the Asian Drama discussed threadbare the problems of Indian life. He stated as follows:

"India being a spiritual country is not careful about its future which is going to be thrown into darkness because of its rapid growth in population. Only God can help if they are not careful by themselves."

This is the statement of one eminent writer, eminent economist of the world. Still we are encouraged to see the strength of kuru vansha where Gandharva gave birth to 100 sons and still we are waiting that on astham garbha may a powerful person like Shri Krishna would come. We are waiting for this. This is the spiritual atmosphere of our country.

Birth in a situation, critical situation where we are standing now should be discussed. If we look back, we will find that in 1951 National Family Welfare Programme was long thought. Then in 1952 India adopted its national policy - control on population.

A very core part of that national policy.