

LOK SABHA DEBATES

LOK SABHA

Statement

—
Wednesday, August 22, 1984 | Sravana 31,
1906 (Saka)

The Lok Sabha met at Eleven of the
Clock.

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[MR SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

Use of ESMA to Ban Strikes in
Collieries

*417. SHRI A.K. ROY : Will the Minister of HOME AFFAIRS be pleased to state :

(a) whether Essential Services Maintenance Act, 1981, has been used to ban strikes in the collieries from 11th July, 1984 and if so, the reasons therefor ;

(b) names of other industries where ESMA has been used during last three years giving the periods and the number of workmen involved ; and

(c) whether before using the provision of ESMA, the Union Labour Ministry which takes care of industrial relations in the coalfield was consulted, if not, the reasons therefor ?

THE MINISTER OF STATE IN THE
MINISTRY OF HOME AFFAIRS
(SHRI P. VENKATASUBBAIAH) :
(a) to (c) A statement is laid on the
Table of the House.

An order prohibiting strikes in any service under the Coal India Limited was issued on the 10th July, 1984 in exercise of powers under section 3 of the Essential Services Maintenance Act, 1981. The order was issued in the context of threat of strike in the Coal India Ltd. and with a view to preventing any disruption in coal supply to industries such as steel plants, cement plants, fertilizer plants and thermal stations which are critically dependent upon coal as an input. The Ministry of Labour, who were consulted, concurred in the issue of the order.

2. powers under the Essential Services Maintenance Act, 1981 have so far been used by the Central Govt. as indicated below, only in exceptional circumstances to maintain essential services in :

- (i) Posts and Telegraphs, Telephones, Railways etc. etc. in Assam in the context of the situation created by the agitation over the foreigners' issue,
- (ii) Maharashtra State Electricity Board,
- (iii) Public conservancy, sanitation, water and power supply in CPWD in Delhi in the context of Asian Games, 1982 and NAM and CHOGM, 1983,
- (iv) AIR and Doordarshan in the context of Asian Games, 1982 and CHOGM, 1983,
- (v) Food Corporation of India,
- (vi) Hotel industry in Delhi in the context of NAM, 1983 in Delhi,

- (vii) Farakka Barrage Project, West Bengal,
- (viii) Hotel industry and transport unit of ITDC in Delhi and hotel industry in Goa, Daman and Diu in the context of CHOGM,
- (ix) Central Warehousing Corporation,
- (x) Mathura Refinery, Uttar Pradesh,

Most of the orders prohibiting strikes in essential services mentioned above operated for six months or less and only orders in respect of essential services in Assam, Maharashtra State Electricity Board, AIR and Doordarshan, Food Corporation of India and Central Warehousing Corporation were extended to operate for a total period of one year.

SHRI A K. ROY : ESMA is an emergency provision to deal with strikes when the normal labour laws fail to do that. In the normal labour laws also under Sections 24 and 27 there are ways to prohibit strike and punish those involved in illegal strikes. But there is a compensatory provision to refer the dispute or the grievances of the workmen to a tribunal or a court for adjudication. But ESMA only prohibits strike but does not take any care of the workers' grievances. So the question comes : if the workers are proved to be the violators of the labour laws, then only you can think of promulgating the ESMA. But here it is the opposite. Workers seldom violate the labour laws and it is the management which is the biggest violator of the labour laws as per the statistics of the Labour Department. They ignore arbitration, never obey any advice of the Labour Department and even the awards of the Tribunal are not implemented inviting prosecution, criminal prosecution on the management. In view of this background, I would like to know what is actually the justification of invoking such type of penal and terrorising measure on the workers ?

The second point I would like to know from the Minister is whether he is aware

that the managing committee of the international Labour Organisation has already criticised the Government for extending the definition of 'essential service' by stretching too far to include the industries and in the ILO you are also represented. If so, what is your reaction to that ?

SHRI P. VENKATASUBBAIAH :

The proposal for invoking powers under ESMA 1981 to prohibit strikes in any service under the Coal India Ltd, was mooted by the Ministry of Energy, Department of Coal. According to the information furnished by the Department of Coal in 1983 the Coal India Ltd, enforced penal action against absenteeism and wild cat strike by ordering 8 days' wage cut as admissible under the law. This action was taken in all collieries affecting a large number of workers. It was resented by the workers and in a convention held at Asansol in March 1984 they decided to go on strike on 4-6-84 to press several of their demands including calling a meeting of the Joint Bi-partite committee for coal industry and the withdrawal of the order regarding 8 days' wage cut.

According to the Department of Coal, the order was issued to curb the tendency to go on illegal wild cut strike and was in accordance with the provisions of the law. The matter was brought to the notice of the conciliation authorities by the Coal India Ltd, and they started proceedings duly. The workers were warned that any strike by them in the circumstances would be illegal and would invite action under the rules.

In the context of the threatened strike, the Department of Coal has considered the question of invoking powers under ESMA to prohibit strikes in the coal industry. It was, at that time, decided that powers under ESMA might not be invoked in view of the fact that conciliation proceedings were pending. So, any strike would be illegal. In any case, under the Industrial Disputes Act, the strike on 4th and 5th June did materialise and about 30 to 40% of the workers

reportedly struck work for two days. The impact of the strike in the Singareni Collieries Limited was almost total. Only two open cast mines in that company worked.

That is why the coal industry has been declared a public utility service by the notification issued by the Ministry of Labour under the Industrial Disputes Act. On the strength of this notification, the strikes in coal industry became illegal inviting penal act on under the Payment of Wages Act. The Coal India Management therefore validly treated this strike as illegal and issued instructions to impose eight days wage cut on all striking workers. So, this has necessitated to impose the cut. These are the reasons which have been listed by the Coal India Limited.

About the other matters, it is stretching too much, such as the definition of strike and all that, our country is also a Member of the International Labour Organisation, so this matter is also being considered by them.

SHRI A. K. ROY : Sir, I failed to convince the Minister and so I would like to convince you. There is a wrong impression that the colliery workers are prone to thoughtless strike. This is not correct. Last year, according to their statistics, the loss of production due to strike is .35 million tonnes while the loss of production due to failure of power is 4 million tonnes. Not only that, Even the man-days lost in coal industries is less than that of the textile industry.

To-day our problem is not the wild cat strike but the wild cat dismissal and wild cat wage cut. Sir, you would be surprised to know that even the Regional Labour Commissioner of Dhanbad has advised against the wage cut and the Calcutta High Court has stayed the action of the management. You can see to what extent the illegality is being adopted by the management. The second point which I would like to state is this. Is it necessary to drag this attitude of confrontation to coal field. Do you want to

turn the coal field into a battle field? We have already put into flames North, South East and West. Now only the coal field is left.

Sir, only a few days back or some time back, according to the press report, the leaders of the CITU and the AITUC met the Prime Minister and requested her to intervene so that a Joint Consultative Committee is called and negotiation takes place—conciliation takes place—and the Coal India goes into production. In view of this I want to know whether you want to invoke ESMA in this spirit...?

SHRI P. VENKATASUBBAIAH : Out of these eight days wage cut which was contemplated by the Coal India, according to information received from the concerned Ministry, the Energy Minister, in the course of the budget discussion, had instructed the Chairman of the CIL to keep the consideration of law and equity in view while penalising the erring workers. He said that there had been no uniform cut on the workers' wage. He said that it was dependent upon the gravity of the situation and the offence committed by the workers. This has become impossible and so, the Coal India sought the help of the Energy Ministry and they recommended that conditions prevailed to bring down the production also. By this strike, critical industries are being affected like the fertilisers, electricity etc. So, we have gone into the matter very seriously and ultimately we have been compelled to take this action. There is no victimisation. As the hon. Member pointed out, it is not a failure of the workers but it lies somewhere else. I have said that in Singareni Collieries, the entire work had come to a standstill. Only two open cast furnaces started to work. The circumstances warranted us to take this action.

SHRI A. K. ROY : What is the assurance of the Prime Minister to our leaders? She assured that there would be negotiations.

MR. SPEAKER : Shri Samar Mukherjee,

SHRI SAMAR MUKHERJEE : The situation is very serious. I personally represented the case to the Prime Minister as well as the Energy Minister. This complaint that there is a wild cat strike is a wrong one. They gave due notice and then they resorted to the strike on the 4th and 5th June. There was a wage agreement arrived at in November, and since November the agreement is not being fully implemented. That is why the workers are very much resentful. So, they demanded that the agreement should be implemented and a part of the agreement was that this should be reviewed in a meeting of the Joint Bipartite Committee but since November till June-July that Committee has not been called. Whenever the Chairman was approached he said that he was not going to call the Committee.

Sir, the Chairman unilaterally declared that there would be eight days' wage cut. If there is any absence on a particular day he has unilaterally imposed such a rigorous discipline. Even delay has become an object of punishment. Therefore, resentment grew to such an extent that the Unions jointly decided to go on a strike. Sir, the Energy Minister intervened but we have got the impression that he is completely helpless before this Chairman. So, I referred this to the Prime Minister and she told me that she would look into it but uptil now that Joint Committee has not been called. Sir, much of the resentment would have been removed had the Committee been called and discussion took place across the table but instead you are imposing ESMA to suppress the legitimate agitation and demands of the colliery workers which will have an adverse affect and will be counter-productive. We demanded the removal of the Chairman.

THE PRIME MINISTER AND MINISTER OF EXTERNAL AFFAIRS (SHRIMATI INDIRA GANDHI) : Sir, it is a fact that Shri Samar Mukherjee and other members came to see me on this issue and I agreed to look into it. We all agree that there should be no repressive measures and the workers

should not be harassed in any way. But hon. Members will appreciate that we had a great deal of indiscipline there. Coal production is absolutely vital to any effort to increase production. Therefore, there it was necessary to have some tightening in the whole area so that production could be augmented and indeed production has increased.

So far as the meeting is concerned, I did pass on that suggestion. I am sorry I did not follow it up but we can see that a meeting of the workers is held. But in the meantime I do not know what the attitude of the workers was? They may have said or done something which aggravated the situation.

SHRI SAMAR MUKHERJEE : There is so much victimisation.

SHRIMATI INDIRA GANDHI : At the same time it is true that the situation there was deteriorating and that production was going down. The law and order situation was out of hand and that had to be controlled.

SHRI SAMAR MUKHERJEE : This is because of the Chairman's action and not due to workers (*Interruptions*).

SHRIMATI INDIRA GANDHI : Before the Chairman.

SHRI XAVIER ARAKAL : Sir, I would like to remind the House that the Eighth Finance Commission in its Report had stated that the growth rate of the public sector is 0.84 per cent. The Jha Committee has also recently reported about the two basic problems being faced by the public sector, namely, the centralised action and the bureaucratic functioning. In this context we have to ask ourselves whether this ESMA is going to help us in any way in the matter of maintaining law and order—as our beloved Prime Minister mentioned—to increase the production and also the role of public sector in this matter. Therefore, I would like to know from the hon. Minister that is it not a fact that this Act has to be

implemented by the State Government and certain State Governments are not willing to implement it with the result that the industrial growth of the public sector is sluggish ?

SHRI P VENKATASUBBAIAH : Sir, about the centralised action and bureaucratic functioning the hon. Member has informed the House that it has been mentioned in various reports. All these factors are being taken into consideration and as a matter of fact this is being dealt with by the Energy Ministry. Sir, what the Prime Minister has said is that in order to keep the economy going this is the most essential sector. The coal production must be kept up and increased. Keeping that in view and because of the circumstances prevailing in that area the Energy Minister has suggested that ESMA will be useful under the present circumstances. Another matter is about calling of the Joint Bipartite Committee meeting. The meeting of the Joint Bipartite Committee is likely to be called shortly and the demands of the workers will be considered in this meeting.

Sir, about the uniform wage cut, I would like to say that it is not like that. The Energy Minister has said that Law of Equity must prevail. Further, Sir, the workers have gone to the court and stay has been granted to them and, as such, the eight days' wage cut has not been implemented so far.

Rehabilitation of displaced persons by NALCO

*418 **SHRI GIRIDHAR GOMANGO :** Will the Minister of STEEL AND MINES be pleased to refer to the reply given to Unstarred Question No. 4809 on 24 August, 1983 regarding rehabilitation of displaced persons by National Aluminium Company Limited and state :

(a) the total number of transit houses for tribal families so far constructed by the Government of Orissa out of Rs. 5 lakhs made available by NALCO for Damanjodi ;

(b) whether the NALCO's management has sanctioned an additional amount of Rs. 21 lakhs to rehabilitate 300 more families and the construction work of these houses is under way ; and

(c) if so, by whom these works have been taken up and the progress made and money spent so far ?

THE MINISTER OF STATE OF THE MINISTRY OF STEEL AND MINES (SHRI N.K.P. SALVE) : (a) Rs. 4.78 lakhs have been spent for constructing 77 transit houses and the remaining Rs. 21,000 for tube wells.

(b) and (c) For the 581 families who are likely to be displaced in Damanjodi sector, an exgratia payment at the rate of Rs. 2,500 per family has been sanctioned amounting to Rs. 14.52 lakhs. In addition, NALCO management has constructed 50 transit sheds at a cost of Rs. 1.85 lakhs and 130 transit sheds will be constructed at a cost of approximately Rs. 4.15 lakhs. Moreover, 100 transit sheds have also been constructed at site by other agencies.

SHRI GIRIDHAR GOMANGO : Sir, I would like to know from the hon. Minister whether the Malajkhand Cooper Project in Madhya Pradesh has adopted the policy to rehabilitate the displaced persons as one of the component of the project and accordingly they have rehabilitated the displaced persons. It was very well appreciated by the Ministry while the same policy was not adopted for Damanjori area. So, I would like to know from the hon. Minister whether the Ministry now consider to provide Rs. 8,500 for construction of house as there is still time left for completion of the project. Nearly Rs. 2,000 crores will be spent on this alumina project and out of this huge investment the Government can easily spend more than Rs. 1 crore for construction of houses.

SHRI N. K. P. SALVE : Sir, the question is divided in two parts. First is about rehabilitation. The hon. Member