

LOK SABHA

Tuesday, March 27, 1979 | *Chaitra 6, 1901*
(Saka)

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

Steps to protect Interests of Depositors in Companies

*490. SHRI R.K. MHALGI :

SHRI K. MALLANNA :

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state :

(a) whether there is any proposal under the consideration of Government to take steps to protect the interests of depositors in public and private companies ;

(b) whether Government are aware that some companies offer high rates of interest to attract deposits and some retired persons and middle class families invest in deposits in such companies lured by high rates of interest and after paying interest for a year or two, some of these companies neither pay the interest nor return the capital, putting these families to considerable hardship ; and

(c) if so, the action Government propose to take to save the poor people particularly the retired persons who have invested in deposits ?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN) : (a) to (c) : A statement is laid on the Table of the House.

Statement

(a) The Department of Company Affairs is concerned with acceptance of deposits by non-banking non-financial companies which come within the ambit of Section 59A of the Companies Act, 1956.

The High Powered Expert Committee set up by Government under the Chairmanship of Shri Justice Rajindar Sachar has made certain recommendations in Chapter IV of its Report on the question of acceptance of deposits from public by private limited companies and in Chapter X of its Report regarding the measures to be taken to further safeguard the interests of depositors in public limited companies. A copy of the said Report was laid on the Table of the house on 30th August 1978. These recommendations are under the active consideration of the Government and an amending legislation on these and other recommendations, as necessary, will be introduced in due course.

(b) The rates of interest offered on deposits by the companies are usually higher than the rates offered by the banks. From a large number of complaints received from depositors Government is aware that certain companies have failed to refund deposits on maturity nor paid interest thereon. It is likely that such depositors include retired persons and members of middle class families.

(c) On the basis of the recommendations of a Study Group set up by the Reserve Bank of India under the chairmanship of Shri J.S. Raj, the Companies (Acceptance of Deposits) Rules, 1975, have already been amended in March 1978 requiring non-banking non-financial companies to indicate in the advertisements inviting deposits, in addition to summarised financial position of the Company, the amount which the company can raise by way of deposits, the aggregate deposits held and the amount of deposits which are overdue for repayment so that an intending depositor would be able to judge for himself whether he should make a deposit in the company. Each deposit-accepting non-banking non-financial company is also required to deposit or invest by 30th April each year, 10% of its deposits maturing during the year ending 31st March next following and such amounts can be utilised only for repayment of deposits.

Further action to safeguard the interests of depositors will be taken as indicated in (a) above and such action will cover all categories of depositors who deposit money in non-banking non-financial companies.

SHRI R.K. MHALGI : It has been stated in the reply that large number of complaints are received from the depositors and the Government is aware that certain companies have failed to refund deposit on maturity, nor have paid interest thereon. May I know from the hon. Minister the approximate number of such complaints and the names of such companies which have failed to pay the interest as well as the deposit amount on maturity ?

SHRI SHANTI BHUSHAN : I would not be able to give the number of complaints because the number is very large.

SHRI R.K. MHALGI : Is that number in thousands ?

SHRI SHANTI BHUSHAN : If a specific notice is given with regard to the number of complaints, we will find out the number of complaints that we have received.

I may inform the hon. Member that in suitable cases, prosecutions are launched whenever there is a violation of the provisions of the Companies Act in regard to the deposits. And upto 31st December, 1978, prosecutions have been sanctioned in 66 cases out of which prosecutions have actually been launched against 51 companies and in five of these cases, the courts have already imposed penalty etc.

SHRI R.K. MHALGI : May I know what are the main recommendations of Justice Sachar Committee ? Do they include the deposit insurance scheme which was introduced after the failure of Palai Central Bank ?

MR. SPEAKER : The report has been placed on the Table of the House. It is accessible from the records .

SHRI R. K. MHALGI : Have the Government accepted the recommendations of the Sachar Committee and are they ready to introduce a Bill in this session itself ?

SHRI SHANTI BHUSHAN : The recommendations of the Rajindar Sachar Committee are numerous. They are at present under consideration of the Government. Government is in the process of taking decision on those recommendations. But the Government expects that in the current session, one Bill not covering all the recommendations but many of the recommendations, is likely to be introduced.

SHRI BAPUSAHEB PARULEKAR : The answer to Part (B) of the question mentions that from a large number of

complaints received from depositors, Government is aware that certain companies have failed to refund deposits on maturity nor paid interest thereon and in reply to Part (c), certain steps have been mentioned. I would like to know whether in order to achieve the desired objective, the Government proposes to amend the criminal law of the country like the Indian Penal Code to punish very severely the parties who defraud the depositors through fraudulent methods or by absconding ? Whether Government proposes to introduce compulsory deposit insurance scheme covering deposits over Rs. 5000/ ? If not, the reasons.

SHRI SHANTI BHUSHAN : So far as the amendment of the Penal Code is concerned, there is no intention to amend the Penal Code because so far as the violation of the provisions of the Companies Act to secure the interest of the depositors is concerned, it is a contravention of the Companies Act for which there is adequate provision for punishment etc.

So far as the case of express fraud is concerned, that way if it is covered by the provisions of cheating, then it is already covered by the Penal Code. But many a times, what happens is that the company does not defraud but the company under a certain expectation takes deposits but thereafter, the code of business of the company does not place itself in such a position as to be able to repay.

MR. HON. MEMBER : Why do you defend the cheats ?

SHRI SHANTI BHUSHAN : If answering a question in Parliament is defending the cheats, I am defending the cheats. All I am saying is how these frauds arise. These frauds arise in two kinds of ways. That is why, all kinds of safeguards are being introduced and many other safeguards are under consideration.

So far as the specific question is concerned, namely, compulsory insurance of the deposits, well, the Rajindar Sachar Committee has not made any recommendation in this regard. The Raj Committee which was appointed by the Reserve Bank and which had got one into this question, was also against imposition of such a thing.

So far as the deposits in banks are concerned, they are insured and the depositors interest is secured but they carry lesser rate of interest. Now, those who are not satisfied with the rate of interest which the bank gives and under the attraction of higher rate of interest want to go to a company to make deposits, obviously they will have to take certain

rials. Otherwise, there is no question of converting the companies into banks. Therefore, all the expert opinion is against that. After all, it is for a person concerned, the intending depositor, to study the aspects of the company to safeguard his interest so that he may have the fullest information about the financial position of the company, etc. and that in this matter there should be no fraud and deception on him. Necessary safeguards have been introduced to secure his interest. Limits have been imposed to the extent a company can take deposits, etc. but thereafter, it will not be possible to have this scheme.

SHRI S. R. DAMANI : May I know from the hon. Minister whether he has got the figures of the total deposits with these companies on 31st December 1978, and further, what is the amount involved where these companies could not fulfil the obligations during the last six years ?

SHRI SHANTI BHUSHAN : Sir, according to the information furnished by the Registrars of Companies during November 1978 and December 1978, on the basis of returns of deposits as on 31st March 1978 filed with them, 99 public limited companies and 41 private limited companies out of 1724 public limited companies and 2450 private limited companies which had received deposits, failed to repay deposits on maturity although claimed. The above figures do not include those defaulting companies which might not have filed their returns of deposits. According to the information furnished by the Registrars of Companies, between September, 1978, and November 1978, 1724 public limited companies and 2450 private limited companies have filed returns of deposits as on 31st March 1978 and the deposits to the extent of Rs. 573 crores and Rs. 45 crores respectively were available with them.

SHRI S. R. DAMANI : Sir, My second supplementary was about the figures . . .

MR. SPEAKER : It is the second part of his Supplementary.

SHRI SHANTI BHUSHAN : Those figures are not readily available.

श्री शिवन भाई एच. शुक्ल : माननीय मंत्री जी ने चीटर्स को जिस दंड से डिफेंड किया यह बहुत ही दुख की बात है। गुजरात के अन्धर धीनाथ फाइनेंस कारपोरेशन और बलुधरा कारपोरेशन करोड़ों रुपया लेकर गायब हो गए और पुलिस ने जब तक कम्पेंट प्राय न प्राए, केस लेने से इनकार कर दिया।

तो क्या सरकार इस को काग्निज्वेल आफेंस बनाना चाहती है जिस से कि पुलिस डायरेक्ट ऐक्शन ले सके क्योंकि कि हिन्दुस्तान में ऐसा फ्राड चल रहा है। यह कहना कि लोग इन्टरेस्ट के लोभ में जा रहे हैं मुनासिब नहीं है। मिटिजन्म को प्रोटेक्ट करना गवर्नमेंट की भी ड्यूटी है। लोग तो फंम जाएंगे लेकिन उन फंमाने वालों को कोई कुछ करने वाला है या नहीं इम कंट्री में ? मैं यह पूछना चाहना हूँ कि क्या आप इम को काग्निज्वेल आफेंस बनाना चाहते हैं ?

श्री शान्ति भूषण : किस चीज को काग्निज्वेल आफेंस बनाने की मांग कर रहे हैं . . . (व्यवधान)

जैसा मैंने माननीय सदस्य को बताया, जहा तक धोखा देने की बात है, जो चीटिंग में आता है वह तो काग्निज्वेल आफेंस है ही। वह पीनल कोड के अन्धर है। अगर किसी ने धोखा देकर, झूठ बात कह कर डिपॉजिट लिया है तो वह तो चीटिंग की डेफिनीशन में आ ही जाता है और वह तो आफेंस है ही, उसके लिए पीनल कोड में प्राविजन है। लेकिन जो ऐसे केसेज है कि जिसमें डेनिबरेटली डिफ्रान्ड नहीं किया है और फिर भी डिपॉजिट नहीं दे सके हैं, जैसे कि कोई कर्जदार होता है, वह किसी से रुपया लेता है, धोखा देने की नियत से नहीं लेता है, लेकिन कुछ परेशानी हो जाने की वजह से नहीं दे पाता है, उस के लिए कम्पनीज ऐक्ट में प्राविजन किया जा रहा है। उस के लिए बहुत से सेफगार्ड्स किए गए हैं, 1975 से लेकर वह सेफगार्ड्स आगे और बढ़ाए गए है, 77 में और बढ़ाए गए है और फिर 78 में बढ़ाए गए है। यह भी किया गया है कि जितने अगले साल में डिपॉजिटर्स मैम्बोर होंगे फाइनेंशियल इथर में, उस का दस परसेंट हर कम्पनी को डिपॉजिट करना होगा 30 अप्रैल से पहले, एक महीने के अन्धर जिस से कि डिपॉजिटर को ऐसी किसी परेशानी का सामना न करना पड़े।