

PROF. K. K. TEWARI : You please save yourself from him.

MR. SPEAKER : Choubeyji, you have made him a Minister and have silenced him.

(English)

Bhopal gas victims compensation case

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***67. SHRI ANAND SINGH :
SHRI KRISHNA SINGH :**

Will the Minister of **INDUSTRY** be pleased to state :

(a) whether the US Federal Judge Mr. John Keenan for the Bhopal gas tragedy compensation case in New York Court has ordered that the Union Carbide Corporation must submit to the jurisdiction of Indian courts;

(b) if so, the details thereof and the reaction of Government of India thereon;

(c) what further steps are contemplated by Government of India in the matter;

(d) whether Government are considering to set up a Special Court with a High Court Judge to try this case as reported in the 'Hindustan Times' dated 15th June, 1986; and

(e) whether any other steps are under consideration of Government to obtain payment of interim compensation to the victims from the Union Carbide Corporation and expedite the final payment?

THE MINISTER OF STATE IN THE DEPARTMENT OF PUBLIC ENTERPRISES (PROF. K. K. TEWARI) (a to c). A statement is given below.

Statement

(a) to (e). Yes, Sir. The details of the conditions of the Order passed by U. S. Federal District Court Judge Mr. John Keenan are as follows:

(i) Union Carbide shall consent to submit to the jurisdiction of the courts of India, and shall continue to waive defences based upon the statute of limitations (By an Order dated 28th May, 1986 the judge clarified that the statute of limitations will begin to run only after 12 months after the date of entry of the Order, or in the event stay is granted against the Order, until 12 months after the stay is lifted, whichever is later).

(ii) Union Carbide shall agree to satisfy any judgement rendered against it by an Indian Court, and if applicable, upheld by an appellate court in that country, where such judgement and affirmation comport with the minimal requirement of due processes;

(iii) Union Carbide shall be subject to discovery under the model of the United States Federal Rules of Civil Procedure after appropriate demand by plaintiffs.

2. Because of the stipulation of these conditions, it should now be possible to successfully seek enforcement of judgement that may be given by an Indian court, in the United States where the assets of Union Carbide, necessary to satisfy our claims, are located.

3. A suit is proposed to be filed in the Court of District Judge, Bhopal shortly against Union Carbide Corporation for damages in respect of the Bhopal gas leak disaster. Every effort will be made for expediting the disposal of the case including moving for entrusting the case to a Judge who will exclusively deal with the case. Other matters like the question of obtaining interim compensation for the victims will be considered at an appropriate time after the filing of the suit.

SHRI ANAND SINGH : As reported in several sections of the Press, the Union Carbide, while on the one hand is trying to prolong the litigation, on the other hand, they are diverting its assets and funds to its

sister concerns. So, I would like to know from the Government whether they have the information about their planning and secondly how the Government is trying to stop them doing this. Are we trying to take the aid of the US Government or have any other suitable steps been taken to see that funds are not diverted or the money is not deflated, so that in the end we may not land up winning a case against a bankrupt company ?

PROF. K. K. TEWARY : Mr. Speaker, Sir, you know that following the judgement of US judge, Government of India is preparing to file a case against the Union Carbide in the court of Bhopal District Judge. Preparations are almost complete. Our Attorneys in the US have, in fact, arrived today and the Attorney General of India has a team of eminent legal experts. Together all these experts are working on a plaint and the case is going to be filed very soon in the District Judge's court.

So far as attempt on the part of the Union Carbide to divert its funds or assets is concerned, Government of India is keeping a constant watch on the Union Carbide's assets and any attempt to divert its assets will be taken note of all appropriate steps there in America will be taken.

SHRI ANAND SINGH : Since the liability arising out of Bhopal case is of tortuous nature to a very great extent and the law of torts is not very well established in India as it is in other countries, my apprehension is, probably the same man will be paid much less here as against what he would have been paid if it was tried in the USA. I would like to know from the Minister while they are trying to pursue this case and speed it up, whether he will clarify the law of torts and its procedures which will be applied in this case, so that the law may apply in the same manner here as it applies in US or UK and not in a milder nature.

PROF. K. K. TEWARY : All the aspects referred to by the Hon. Member are being looked into by competent authorities. I made it clear at the very outset that the Attorney General has a team of legal experts

and they are preparing the plaint. Naturally all these aspects will be looked into and the court will decide what ultimately will be its shape and quantum of the damages.

[Translation]

SHRI K. N. PRADHAN : Mr. Speaker, Sir, even before this tragedy occurred, the Union Carbide had corrupted many politicians and officers and now when this case is going to be instituted, the Union Carbide have all along tried to corrupt the people so as to keep the payment of compensation at the minimum. Complaints to this effect were lodged with the Government along with evidence that a number of politicians have gone to U.S.A. and have issued statements there. Many officers have openly given such statements which clearly indicate that they are working in the interest of the Union Carbide. Through you, I would like to ask the Hon. Minister whether action would be taken against such politicians as have sold themselves and are traitors ? Secondly, our officers who are on this job, are filling up forms for the third time. They have already done this exercise twice earlier, but all in vain. Five lakh people are affected due to this gas tragedy. Just now the Hon. Minister has said that the case will be filed soon. Let me tell him that I shall be convinced of his efficiency if he could file the case within the next six months. Five lakh people will have to be medically examined and thereafter they will be examined by the experts and then the forms will be filled up. Complaints to this effect have been received a number of times. Statements have been issued many times. One officer has even given the statement that it has not caused any adverse effect on pregnant women. I would like to know whether such officers would be dissociated with the preparation of this case ?

PROF. K. K. TEWARY : Sir, the Hon. Member has drawn attention to and have mentioned the politicians as well as officers. I would like to tell him that there has not been any kind of malpractice in the preparation of this case on the part of the officers. Such a thing has never been brought to the notice of the Government.

SHRI K. N. PRADHAN : I have sent a full fledged memorandum but no reply has been given so far.

PROF. K. K. TEWARY : Mr. Speaker, Sir, I do not think any officer has tried to deliberately weaken this case. If the Hon. Member has knowledge about any politician who has committed such a heinous act either by taking bribe or through connivance with the Union Carbide, I think the Hon. Member should reveal the names of such people before the House. Government have no knowledge about any politician doing such a thing.

MR. SPEAKER : I shall not allow any names to be mentioned here. But, of course, he can give it in writing if there is any complaint and that can be inquired into.

PROF. K. K. TEWARY : If he has any information that some politician has indulged in such a thing, he may give it to me. I shall welcome it and the Government will certainly take action against such people. Such an insinuation is of a very serious nature. In case the Hon. Member really has any such information, he may kindly pass it on to me. ...*(Interruptions)* ..

MR. SPEAKER : You are saying the same thing that I have said.

(Interruptions)

MR. SPEAKER : Pradhanji, I have already it clear. You take your seat. Don't do this, if there is some objection. I shall see to it.

(Interruptions)

[English]

SHRI C. MADHAV REDDI : Sir, the Hon. Minister told us that the Government is having a close watch on the property of the Union Carbide in India but it is reported that the Indian property will not be enough to meet the liability of compensation.

PROF. K. K. TEWARY : May I correct the Hon. Member ? I said that we are keeping a close watch on Carbide assets in America.

SHRI C. MADHAV REDDI : As regards the Carbide assets in America I do not know what type of watch is being maintained in India but I would like to know whether any judgement here in India...*(Interruptions)*

MR. SPEAKER : Please do not interrupt the Hon. Member.

(Interruptions)

PROF. K. K. TEWARY : Sir, Telugu Desam campaign is for something else and not for the question.

AN HON. MEMBER : You answer the question.

PROF. K. K. TEWARY : I would reply to the question. I am not running away.

(Interruptions)

MR. SPEAKER : No heated arguments. Why are you interrupting ? Let him put his question, otherwise he would not be able to reply. Mr. Minister, you have not to reply to that.

SHRI C. MADHAV REDDI : Will any judgement given in the Indian courts be enforceable in the United States ? If so, has any action been taken by the Government to take an interim injunction against the transfer of assets in the United States ?

PROF. MADHU DANDAVATE : Telugu Desam has nothing to do with it.

PROF. K. K. TEWARY : I did not hurl any allegations; another Hon. Member hurled certain allegations against unknown politicians. I am not levelling any allegations, nor am I naming any party. Why are you naming a party ?

MR. SPEAKER : Please answer his question.

PROF. MADHU DANDAVATE : My source is Mr. Tewary.

MR. SPEAKER : No source of revelation is allowed.

PROF. K. K. TEWARY : I loathe to be your source... *(Interruptions)*

Mr. Speaker, Sir, I have made it clear that the case had to be filed in an American court precisely for the reason that the Union Carbide assets were largely located in the United States of America. The court gave its verdict and in pursuance of that, the courts in India will try the case. We have our Attorneys there and I can assure the Hon. Member that Government is constantly watching and the Government is also aware of the high stakes involved... *(Interruptions)*

MR. SPEAKER : Let him first answer the question. If he does not answer your question, I will ask him. Why are you interrupting ?

PROF. K. K. TEWARY : Therefore, there is no question of Government being lenient of Government being not watchful.

So far as injunction is concerned, there is no apprehension at this stage. If there is any apprehension on the part of Government that assets are being disposed of, or these are not adequate to meet the dimensions of damages that we may like to claim in the court, in that case at an appropriate stage we may think of taking such an action.

SHRI INDRAJIT GUPTA : You will excuse my saying so, but I do feel that this House is not showing adequate concern about the fact that this accident or disaster which took place in December 1984 and which is now already more than one and half years old, has created a situation in which not one single pie as a compensation or interim compensation has yet been paid to the victims of this disaster neither to the families of those who were killed nor to those who have been badly disabled and crippled for life. They have not received a single pie till today, though one and a half year have passed. I do not know whether in any other country such a thing would be tolerated.

Secondly, an enquiry was instituted in between locally in Bhopal to find out the degree of culpability or responsibility for this disaster as far as the local people who were controlling the management of Union Carbide

were concerned. Then that enquiry was suddenly withdrawn and the whole thing has been hushed up and nobody has been punished till now.

Apart from the legal intricacies, I do not know whether our stand in the court has been vindicated or whether actually we have received a politerebuff from the Judge who himself has made some very caustic remarks while referring the matter back to the Indian courts. I would like to know pointedly what steps the Government proposes to take on an urgent basis to provide some interim compensation for these hapless people, or whether anybody connected with the responsibility for this disaster due to the callousness and neglect of safety precautions here is going to be punished or not.

PROF. K. K. TEWARY : Let me reply Sir. The Hon. Member has said that nothing has been done.

SHRI INDRAJIT GUPTA : I said about compensation.

PROF. K. K. TEWARY : You said that nothing has been done for the hapless victims. The Central Government alone has spent Rs. 60 crores.

SHRI BASUDEB ACHARIA : That is relief.

SHRI INDRAJIT GUPTA : I am talking about the compensation.

(Interruptions)

PROF. K. K. TEWARY : About compensation, I am coming to that Mr. Speaker Sir, you will agree with me that the question of compensation will be decided only by the courts and we are going to file the case. It is for the courts to decide. The courts will decide the compensation and interim compensation, also. We will have recourse to the courts, but that will be decided only after the case is filed.

MR. SPEAKER : One minute. Before I announce that this Question Hour is finished, may I just urge upon the Minister ? Due to the magnitude of the disaster, we have lost

so many lives and we know only about the people who have been killed. But we do not know about those people who are just living-dead at the present time and their number is innumerable.

PROF. K. K. TEWARY : We know about them also.

MR. SPEAKER : I would like you and also the Law Minister to pursue the matter urgently. I know you will do it. You two have to do it on a war-footing. I know that you will do it.

THE MINISTER OF STATE IN THE MINISTRY OF LAW AND JUSTICE (SHRI H. R. BHARDWAJ) : May I make a brief submission because Guptaji wanted to know. Actually, the American Court have given a very strong verdict in our favour, when they said that the US Multi-national Company would have to surrender to the jurisdiction of the Indian Court, because we cannot administer their assets through the decree of the Indian Courts, unless they submit themselves to the jurisdiction of our courts. Once they have submitted to the law and the Indian Courts, we are going to file the suit and get adequate interim relief through our courts.

SHRI DINESH GOSWAMI : The Law Minister should clarify one point. In the judgment of the US Court, nowhere it is said that the Union Carbide would not be able to transfer its assets from the United States. What preventive measures are you taking in this regard ?

SHRI H. R. BHARDWAJ : I would like to give the information to the Hon. Member. They did try to do it. We evaluated assets even in America during the proceedings that took place. There should be no apprehension. We are not allowing any transfer of property in India. They made one request. We have stopped their earlier efforts also.

(Interruptions)

PROF. K. K. TEWARY : When the case is pending, how can they transfer the assets ?

WRITTEN ANSWERS TO QUESTIONS

[English]

Wood-based industries

*68. KUMARI PUSHPA DEVI : Will the Minister of INDUSTRY be pleased to state :

(a) the number of wood-based industries set up in different States;

(b) whether some wood-based industries set up in Madhya Pradesh are facing crisis due to shortage of raw material;

(c) whether the Union Government have advised the wood-based units to enter into collaboration with small and marginal farmers to produce the needed raw material on their waste-land; and

(d) if so, how far such guidelines have been observed by the wood-based units ?

THE MINISTER OF INDUSTRY AND MINISTER OF PETROLEUM AND NATURAL GAS (SHRI NARAYAN DATT TIWARI) : (a) 92 units have been set up in various States which are functioning in the organised sector.

(b) Government have no information.

(c) No, Sir.

(d) Does not arise.

Power generation in private sector

*69. SHRI MOHANBHAI PATEL :
SHRI RAM SWAROOP RAM :

Will the Minister of ENERGY be pleased to state :

(a) the extent to which private sector has entered into the field of power generation in different States; and

(b) what other measures are being taken or proposed to be taken to increase the production of power in the country to meet the demand ?