

15.04 hrs.

STATUTORY RESOLUTION RE : DISAPPROVAL
OF INDUSTRIAL DISPUTES (AMENDMENT)
THIRD ORDINANCE

AND

THE INDUSTRIAL DISPUTES (AMENDMENT)
BILL — AS PASSED BY RAJYA SABHA*[English]*

MR. DEPUTY-SPEAKER : Let us now take up item Nos. 17 and 18, that is, further consideration of the Bill moved by Shri Ramakant D. Khalap. Shri Basudeb Acharya, who was on his legs yesterday, may continue.

15.04 hrs.

SHRI BASU DEB ACHARIA (Bankura) : Sir, the Central Administrative Tribunal was constituted for the speedy disposal of the cases in regard to the Central Government employees.

15.05 hrs.

(Shri P.M. Sayeed - *in the Chair*)

But our experience is that in a large number of cases where the Central Administrative Tribunal gives the Award in favour of the employees, then the Ministry prefers an SLP in the Supreme Court. Thus, the very purpose for which this CAT was constituted is defeated. This is the experience with the RLC, the Labour Courts and the Tribunals. So, what is needed is where there is accumulation of cases, where there is no speedy disposal of cases, some mechanism should be developed so that the cases do not get accumulated and there will be speedy disposal of cases and the workers will get justice speedily.

Sir, the Air Corporation Act was repealed by this House. Previously, the Central Government was the "prescribed Government" but after the repeal of the Act and after converting the Central Public Sector Undertakings to Corporations and Corporations to limited companies, there is a need to amend the section where the "prescribed Government" is there.

I know a number of cases in the Airport Authority. Recently Sir, in the Indira Gandhi International Airport Terminal-II, about 220 contract workers and 210 sweepers have been illegally retrenched. These workers have been working for more than 15 to 20 years. This was done after the change of the contractors. This was never done. For the first time, after the change of contractors, these 210 sweepers have been illegally terminated although they have been doing the perennial of job continuously. There is a law enacted by this

House - the Contract Labour Abolition and Regulation Act - whereby engagement of contract workers is prohibited in a permanent nature of job or perennial nature of job. But this Act is often violated by the principal employer and, sometimes, the Government of India also overlooks this aspect. We have this experience in various departments of the Railways where a large number of employees were working.

SHRI NIRMAL KANTI CHATTERJEE (Dumdum) : In every single airport. The regular work is done by contract labourers. The Contract Labour Act prohibits this and says that they should be given the same pay as the permanent worker. But nothing is done. I do not know whether Shri Arunachalam will be looking into this.

SHRI BASU DEB ACHARIA : Under Section 22 of the Contract Labour (Abolition) Act, if a contract workers does the work of a permanent worker, he will get the same pay and allowances or par with the permanent worker. But this is neither done in the organisation like the airports nor is it done in the railways. I can tell this based on my experience of the railways. You will be surprised to know that even the casual workers of the railways are not paid the minimum wages as fixed by the various State Governments. These Acts are frequently violated.

SHRI NIRMAL KANTI CHATTERJEE : Sweeping is not a casual work. Is it not a regular work?

SHRI BASU DEB ACHARIA : Sweeping is not a casual work, it is a regular work. These 210 workers had been working for more than fifteen to twenty years. Though the contractors were changed yet the workers were never removed or were never thrown out of job.

SHRI S. BANGARAPPA (Shimoga) : Instead of regularising them, they have been changed.

SHRI BASU DEB ACHARIA : They have been thrown out. I request the Labour Minister to look into this and see that these workers are not thrown out. They should be re-engaged in their jobs. We know that there is a provision in the Industrial Disputes Act of 1947 about the illegal lock-outs. There are number of cases where, after declaring lock-outs, no action was taken against the industry or the industrialists. I know a case of Mody Steels in Ghaziabad. There was an illegal lock-out declared three years ago. There were 2,500 workers and all of them lost their jobs. I raised this matter on the floor of this House but no action was taken against the persons who were responsible for such illegal action. Although there is a provision under this Industrial Disputes Act of 1947, yet when provisions are violated, no action is taken by the Government or by the Ministry.

Recently, I may mention about what is happening in Air India. I have with me, one case where for mere demonstration by a recognised employees' union - the Air India Employees' Union is a recognised union - four employees were dismissed. They were not satisfied with the wage agreement which was arrived at by the representatives of the union. There was some resentment because the general employees were not satisfied. Because of this demonstration by the workers, four employees were dismissed from service and the management of the Air India charge-sheeted fifty employees. I request the Minister of Labour to intervene. I met the Minister of Civil Aviation and he told me that he would hold a meeting with the management of Air India and also with the representatives of the union. But no meeting has taken place. There is a resentment among the employees. If no action is taken, if the problem is not sorted out, there is a apprehension that more employees would be dismissed by the management of Air India.

I have a case with me of the employees of the Life Insurance Corporation and the General Insurance Corporation. What is the fault of the employees of these two big organisations? They did not have the right to collective bargaining. The LIC employees and the GIC employees had that right to collective bargaining prior to 1981 and 1984 respectively.

This right was withdrawn and they had to go to the Supreme Court. They are fighting their case in the Supreme Court for the last ten years.

Now there is a change in the Government. The U.F. Government has very clearly and categorically stated that it would protect the interest of workers and employees and would see that recognition of the union is done through secret ballot. When such a pledge is there in its approach to the Common Minimum Programme, then why the employees of LIC and GIC will have to wait for the Supreme Court's verdict? What is happening now? Negotiations take place with other organisations like Steel Authority of India, Coal India, Air India, Indian Airlines and nationalised banks. Whereas with LIC and GIC wage revision is done not through negotiations with the employees' union because they have no right to collective bargaining, but the wage revision is done through notification. That is, the wage revision is imposed upon the employees of LIC and GIC. When the Central Government employees have their Joint Consultative Machinery, why should the employees of LIC and GIC be deprived of it?

MR. CHAIRMAN : Please conclude.

SHRI BASU DEB ACHARIA : I am concluding.

SHRI NIRMAL KANTI CHATTERJEE : This is a very important legislation. In the insurance sector no bipartite agreement is permitted.

MR. CHAIRMAN : He is talking about it.

SHRI NIRMAL KANTI CHATTERJEE : I think it is a very serious matter.

SHRI BASU DEB ACHARIA : Although the amendment is very simple, which is necessitated because of converting the corporation to a limited company which we also opposed when the Air Corporation Act was repealed, it is an amendment of consequent change. I would request that the Labour Minister should bring a comprehensive legislation because the Act is of 1947. There are a number of provisions which have no relevance now. So there is a need for comprehensive amendments and to bring a comprehensive legislation after the experience of 50 years as to how the various provisions are being violated frequently. There is a need for a comprehensive and fool-proof legislation. I would request the Labour Minister to bring that legislation in order to curb anti-labour activities by the management.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Sir, this ordinance was brought forward on the 11th August, 1995 i.e. about 10 months back. It was sent to the Rajya Sabha on 28.11.95 and was passed on 5.12.95. But it could not be passed in the Lok Sabha. The new ordinance also lapsed on the 15th June, 1996. On 20th June, 1996, another ordinance was brought forward. In it, the present Government is not at fault. It is the fault of the previous Government. But since the present Government could not get the Bill passed, it issued the ordinance. Since the present Government is the successor of the previous Government, some blame is bound to come on it as well. Here what I mean to say is :

[English]

In the absence of a proper definition of who is the appropriate authority, in the air-transport sector, in the ONGC and in the Industrial Finance Corporation of India, many disputes are pending.

15.22 hrs.

(Shrimati Geeta Mukherjee in the Chair)

The departments of the Central Government also have their branches in the States. When this dispute reached the States, the State Governments regretted their inability stating that enacting legislation is the job of the Central Government. Therefore, the Central Government is the appropriate authority. The State Government was finding it incapable of taking any

decision in this regard. Therefore, the names of the Finance Corporation of India, ONGC, Air Transport services were changed and converted into limited companies. It was a sort of a privatisation. But my submission is that after all who would settle the labour disputes in these organisations. For that purpose, the Central Government was given powers and designated as proper authority. It is precisely for this purpose that this Bill has been brought forward. These companies have been converted into limited companies and privatised. But who will settle the labour disputes in those companies? That is why this Bill has been brought forward here. I would like to know the number of the pending cases, how many of them have been referred after the promulgation of the ordinance because it is a bill that is to take effect retrospectively. The cases have been accepted after the ordinance and it is a sort of bringing about the change.

Madam, in 1977 also, a Parliamentary Committee had been constituted to consider this draft during the Janata regime. That Committee summoned the representatives of the working class, trade unions and other connected with industrial dispute. Madam, it is an old Act enacted during the British period. Now the situation has undergone a sea-change. Now the public would be the owner and the workers would also have due participation in management. It is a changed situation. But if the hon. Minister had devoted some more thought and time on the Bill it would have been better. Luckily, the Labour Minister is present here. I would like to make some constructive suggestions to him.

My first demand is that it is only the recognised trade unions which should have the right to enter into the agreement. Therefore, the trade unions should be recognised on the basis of secret ballot. The salaries of the workers drawing Rs. 1600/- per month should be raised. Thirdly, the conciliation officer has no powers. If he fails, he refers the matter to the State Government, where labour disputes remain pending for years. The State Government sleep over the labour disputes for years and when it wakes up, it refers the disputes to the Labour Court. Thus the conciliation officer has no power worth the same. He has no recognition. When he fails, he reports the matter to the State Government. As a result, many industries in India are either lying closed or are sick. In many industries, the workers are not getting even their salaries.

I am not talking of Bihar but today, even in Kanpur, U.P., all textile mills are lying closed. The workers there have not been paid salaries for many years. Today, there is President's rule in Uttar Pradesh but you are not in a position to revive those sick mills. Workers are not being paid salaries. The conciliation officer cannot get the bonus, gratuity etc. paid to the workers. Who will look after the interests of the workers in the country?

Who will implement the Court order if awarded in favour of the workers? No such authority is there. As the hon. Member who spoke before me said, there are no judges, no furniture and no chairs etc. in the labour Courts and the industrial tribunals.

I would like to draw the attention of the hon. Minister towards the lacunae in this Industrial Disputes Act. You have converted Air India, Air Transport, ONGC etc. into limited companies. Now who will decide the labour cases? These are two amendments. About the second amendment, I would say that nobody would be interested in talking about the interest of the workers. There is a provision of Works Committee in the Act. But the election of this Committee never take place. Then there is a provision of the Grievance Committee also. But it is also nowhere to be seen. My suggestion is that an Industrial disputes Act should be enacted in the country and for this the opinion of the workers, trade unions and the political parties should be obtained and given due thought. We have been arrested workers' participation in management by all Governments including the present Government. But this assurance should be implemented.

In the end, I submit that the unorganised labour is being exploited in our country due to our liberalisation policy. There is no arrangement for imparting Training in the new technology. Multinational companies are coming in our country in a big way. First, only the British East India Company had come here and it ruled our country for about 200 years. Now many foreign companies are coming. Thereafter, I think there would be no Parliament. Some other force would come to rule our country.

Our national leaders like Sardar Vallabhbhai Patel, Dr. S.P. Mukherjee, Deendayal Upadhyaya, Smt. Indira Gandhi, Lal Bahadur Shastri, Madan Mohan Malviya, Dr. Ambedkar and others whose portraits are adorning the Central Hall of the Parliament House made supreme sacrifices for the independence of the country. They had not made these sacrifices in the hope that when their progeny comes to power, it would again put the country into the shackles of slavery. If such a thing happened, then these portraits would not be there and this Lok Sabha would also be wiped out of existence. We do not know how many foreign companies will come here and rule over us. Multinational companies are coming because labour is cheap in India. The hon. Minister should keep the interests of the labour in mind and then consider this Bill. When the Central Government has taken power in its hand to settle all these cases, then it should accept my constructive suggestions. Only then the labour class would be benefited. Otherwise in the private Companies, working class would continue to be exploited. Therefore, the Central Government work with a firm hand and accepts

all suggestions made by me for the benefits of the working class.

I thank you for giving me the opportunity to speak and to all others who listened to me attentively.

JUSTICE GUMAN MAL LODHA (Pali) : Madam, this Bill for the industrial sector has been introduced with a view to effecting very minor changes. It has been brought forward to legitimise the names of some companies, their management, amalgamation and some other changes. As such, it is a very important Bill for the industrial sector. It will define the relations between workmen, owners and other labourers. Many changes and amendments have been made in the Act but even then we have failed to create an exploitation-free society. The most important thing is that inspite of these provisions, nothing could be done by now. In my constituency, Pali, the the Maharaj's Umed Mills, about 5000 workers are working. They have not been paid salaries for the last four months. Earlier, there was a strike is that mill due to the arbitrary attitude of the industrialist over the workload. The Government compelled the management to bring the workers back on the work by imposing certain conditions under the Industrial Act. But the management again resorted to lock-out. This lock-out has driven about 5000 workers and their families to the brink of starvation. For the last 3-4 months, there is the starvation providing all over. They do not have enough money to pay the school fees of their children. For this reason, the names of their children are being struck off from the school rolls. They do not have funds to pay for the medical treatment of their children. They are falling prey to diseases. They are being exploited because of the ineffectiveness of this law.

Certain provisions have been made in Articles 41 and 42(1) of our Constitution. Right to Work has been enshrined in Article 41. Workers' participation in management has been provided for in Article 43 (a). When the Constitution amendment regarding workers' participation in management was passed, it was welcomed all over the country.

[English]

Article 43(a) says :

"The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry."

Under Article 43, it is said :

Living wage, etc., for workers; The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or

otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas."

Under Article 41, it is given as :

"The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work..."

Article 42 says :

"The State shall make provision for securing just and humane conditions of work..."

[Translation]

All these Articles were enshrined by amending the Constitution. At that time an atmosphere was created in the country that beneath there would be no exploitation of workers. They would be given minimum wages and they would not have to face of situation where their family members would face starvation. But all these Articles remained confined only to the Constitution. All the Governments which came into power during the last ten years made repeated announcements that they would enact effective laws to ensure workers' participation in managements, and these laws would be implemented but nothing has so far been done in this regard. For instance, I would like to say that in my constituency, Maharaja Umed mill has been lying closed. I raised this question a number of times but so far no effective step has been taken to provide work to 5000 workers and to lift the lock-out. They are still starving and food is not being cooked in their Kitchens. Efforts should be made to provide food, medical and other facilities to them and their children. I would request that this mill should be taken over by the M.Ps or some other similar action be taken. The Rajasthan Government issued a communique directing the industrialists to take necessary action in this direction but to no effect. The Rajasthan Government is trying to take effective steps to safeguard the interests of the workers but due to certain legal lacunae, it is unable to do anything ... (Interruptions)

[English]

MR. CHAIRMAN : Shri Lodha if you do not mind I would like to remind you that at 4 o'clock today, the House would take up for discussion the Arbitration and Conciliation Bill, 1995. So, please be brief.

JUSTICE GUMAN MAL LODHA : Madam, I would not take much time. I was not given time during zero

Hour, so I requested them to give me some time to mention those things.

MR. CHAIRMAN : It does not matter. Your other colleagues are also there.

[Translation]

JUSTICE GUMAN MAL LODHA : I appeal to the Government to take back on work about 5000 workers of Maharaja Umed Mill either under some agreement or some Government order or Industrial Dispute Act. The State Govt., the Central Govt., National Textile Corporation and Industrialists should not be allowed to play with the lives of the workers and exploit them or if they continue do so, it will result in widespread resentment among the workers. A poet has rightly said :

'Bhookhe Ki Sukhi roti se Vajra Banega mahabhayankar,
Rishi Dadhichi ko irshya hogi, tandav nritya kareng Shankar
Jo jag ko ann pradan kare, jag usko hi thukrate hai,
Uski haddi ko noch-noch, jag vaibhav bhawan banata hai,
Jag ki jhuthan ke thaal bhare, bekar bhale ye yon jaate,
Roti ki khatir jibh-ribh kar, uske bachhe hain mar jaate."

SHRI P.R. DASMUNSHI (Howrah) : One *tandav nritya* has already been performed in Ayodhya.

JUSTICE GUMAN MAL LODHA : To establish exploitation free Society and to end inequality many *tandav nrityas* would have to be performed and many revolutions would have to be brought about...*(Interruptions)* That is why you have been ousted from Calcutta and people of West Bengal have rejected you. You were exploiting workers there...*(Interruptions)* You want to run the Government on crutches. That Government will not last long...*(Interruptions)* We know your traditions.

SHRI P.R. DASMUNSHI : In Calcutta, Muslims celebrate Durga Pooja with us.

JUSTICE GUMAN MAL LODHA : You have cut into two pieces *Bande Mataram* that Bankim Chandra Chattopadhyaya wrote for the nation. It is their tradition. They did so in pursuance of their policy of appeasement ...*(Interruptions)* I would request that the exploitation of workers should be stopped and they may be provided relief. For this purpose, a comprehensive Bill should be brought forward in consonance with the spirit of Articles 40, 41, 42 and 43 of the Constitution. If it was not brought forward, the workers would continue to be exploited in the days to come. When the *Bhartiya*

Majdoor Sangh gave a call for strike for the establishment of exploitation free society, the same was also opposed and numerous conspiracies are being hatched. I would request that the exploitation of the workers should be put the end to and they be paid their salaries for the period of 4 months during which the Maharaja Umed mal mill remained closed. Proper provisions should be made in the Industrial Disputes Act to deal with the problems of the workers. Bringing of legislation under Articles 41, 42 and 43 only would not serve any purpose. But the Government should have strong political will power to implement the provisions of the Act and the notification. As far as this amendment is concerned, I do not oppose it but a comprehensive Bill for the welfare of the workers should be brought forward. With these words, I conclude my speech.

[English]

SHRI SATYA PAL JAIN (Chandigarh) : Madam, I am thankful to you for giving me time to make certain points. I will take only four to five minutes because this Bill has to be passed today.

Madam, this Act was brought in to ensure justice—I will say not only justice, but early justice—to the labourers and workers. Experience has shown that we had not been able to be as successful as we had contemplated in the Act. We find thousands of cases pending before various labour courts in various parts of the country.

I would make two or three suggestions to achieve the object of the Act. When a dispute arises, the matter is referred to the Reconciliation Officer or the Labour Officer. Sometimes it take months together for the case to be disposed of, if the management does not want to give in. In this long fight between the labourer and the management, it becomes very difficult for the poor worker to fight and earn his livelihood. The management can manage the people concerned who manage the affairs. In this regard, I would like to suggest two things. One is, it should be made mandatory for the Reconciliation Office to decide a dispute within a timeframe, maybe of 15 days, maybe of three or four weeks. It should not be left to his discretion to keep the matter pending for an indefinite period. Let him decide the case within a particular time. If he cannot decide the case within that time, the matter should automatically be referred to the Labour Court.

In certain cases, certain State Governments have refused to refer the disputes to the Labour Court. The worker on his own has to go to the court, maybe High Court, maybe another court. It is the court which directs the concerned officer to refer the matter to the Labour Court. I think the matter should be referred, as a matter of right, to the concerned Labour Court, if the Reconciliation Officer fails to do so.

15.48 hrs.

(Shri Chitta Basu *in the Chair*)

Mr. Chairman, Sir, I would like to suggest one more thing. We should make the disposal of cases by the industrial court time-bound. Let the industrial court, the labour court decide the dispute at the most within six months. Now the situation is that the workers keep visiting the courts, but they are not able to get their cases decided for years together. I know of certain cases in my area where labour disputes are pending for two to four years without a decision being taken. The poor worker who has no means of livelihood, who is not able to get the economic benefits through certain other institutions, experiences difficulties in his fight with the mighty management. Since he cannot fight with the mighty management, I suggest that this provision should be made mandatory. Provide for it in the law that the labour court has to decide upon case within six months or maybe within one year. Otherwise the matter are not be decided for years together.

To achieve this end, I would like to suggest two more things. One is increasing the number of Labour Courts. We can ask retired Judges of High Courts to perform the job of Labour Court. We can give them specific disputes, ask them to decide upon them. We can ask Sessions Judges to do that. The number of cases is increasing, but the number of the Presiding Officers, who have to decide the matters, is not being increased because of certain reasons. Because of this the number of cases of the workers are increasing day by day and the disposal is increasing.

One more point which I would like to bring to your notice is, even if the Labour Court gives a verdict in favour of the Labourer, it is very difficult for the labourer or the worker to get it implemented. The labourer can move the court, and if he goes to the High Court, he has to engage a good lawyer who would charge a good fee. The management can go to court and can engage any lawyer even Shri Narasimha Rao did it - because they know that they can make the payment whether it is Rs.1 lakh or Rs.2 lakh per day. The poor labourer cannot do it. I suggest kindly consider that in the cases of labourers, the industrial workers, the State Government should come forward. You ask your State Government lawyers to defend the workers where the awards given under the Industrial Disputes Act by the Labour Court are in favour of the workers. It is difficult for the workers to defend themselves. In the criminal law, the private person has no right to come, as the Supreme Court has also said yesterday in Shri Narasimha Rao's case. They will not allow the private persons to come. It is the State which will fight for the person against whom something wrong has been done. In that case, you can ask the

State that if the award has been given in favour of a labourer, why should not the State Government come and say that they will defend the award? They should ask the Attorney-General or the Advocate-General to defend the award.

15.51 hrs.

(Prof. Rita Verma *in the Chair*)

I know about a case in Faridabad, where about 100 workers were awarded wages by the Trial Court. The management appealed to the High Court. They engaged a competent lawyer. It is because they have the means to do that. But the workers could not even engage a lawyer. The award which was given in their favour by the Trial Court was *ex parte* set aside. The court said that they cannot do anything because the labour party has not come.

So, I am suggesting kindly examine it. Let the State defend those awards which are in favour of labourers in case they are not able to defend themselves and if they are not able to engage competent lawyers. Or you can ask your legal Aid Cell to defend their cases. I would request you to kindly incorporate some clause for the execution of the awards under CPC Order 8. If somebody has given you a note and if he does not honour it, you straightaway file a suite which is decreed within few months. I would request you to kindly provide some Clause in the Industrial Disputes Act also. Once the award is given, there must be some enforcing agency which should, within a particular time, enforce that award, and remove that clause of Stay. I would request you to do it by way of suitable amendment. Kindly see that if the Labour Court passes an award in favour of the labourer, High Court may examine it under Article 226. But no Stays should be granted without hearing the labourers, without hearing the other party. Otherwise, the workers will not be able to get justice. I would request you to kindly examine this.

With these few words, I thank both the Chairpersons, you as well as the earlier one, for giving me time to speak.

THE MINISTER OF LABOUR (SHRI M. ARUNACHALAM) : Madam, Chairperson, I am grateful to the hon. Members for their participation in the debate and for the valuable suggestions offered by them in course of the debate.

Madam, I am also grateful to my Cabinet colleague-hon. Minister for Law - for having taken the trouble to be in the House in course of the debate as I had to remain in Rajya Sabha in connection with another Bill.

The reason for introducing the proposed Bill to amend Section 2(a) of Industrial Disputes Act is for the

limited purpose to declare Central Government as the appropriate Government to deal with industrial disputes in those organisations which have implications of an all-India character. Such establishments and activities are related to air transport services, the Airports Authority of India, the Oil and Natural Gas Commission and the Industrial Finance Corporation of India Limited. They are spread across States and have nation-wide ramifications. It was, therefore, considered expedient and desirable to ensure uniformity in the handling of industrial disputes concerning establishments and their activities. The arrangement of having the Central Government as the appropriate Government under the Industrial Disputes Act in respect of these organisations existed prior to their conversion under the Companies Act. A significant number of disputes concerning these organisations were pending for settlement through conciliation, arbitration and adjudication for want of competent jurisdiction. Hence a conclusive resolution of the question of 'appropriate Government' for these organisations had acquired an urgency which could not be left unattended to any longer. Under the existing dispensation, it is only orders of an adjudicating authority (CGIT/National Industrial Tribunal) which can have an all-India coverage. This can be done only on a reference of an industrial dispute by the Central Government. This can be done only on a reference of an industrial disputes by the Central Government.

Madam Chairperson, coming to the suggestions and the points raised by the hon. colleagues, most of the colleagues have raised for a comprehensive legislation on this. Shri Ramendra Kumar, Shri Pradeep Bhattacharya, Shri Basu Deb Acharia and Shri Bhargava have raised this issue.

As far as comprehensive Bill is concerned, the Government is proposing to place draft proposal for comprehensive amendment to the Industrial Disputes Act, 1947 in the forthcoming tripartite meeting of the Standing Labour Committee scheduled to be held in September 1996. This proposal shall be considered at that time by the Government.

Shri Pradeep Bhattacharya has also raised, where are we in regard to adjudication of disputes pertaining to Indian Airlines, Air India, ONGC and IFCI for whom the Central Government is sought to be made the appropriate government. Since promulgation of the first Ordinance in October, 1995, the decision regarding adjudication has already been taken in respect of 79 disputes. Fifty-four disputes are still pending where adjudication decisions are yet to be taken.

Shri Basu Deb Acharia has also wanted to know the guidelines for adjudication of an industrial dispute to the Central Government Industrial Tribunal. There are prescribed guidelines on receipt of failure of conciliation.

The FOC report is first examined in the concerned division of the Ministry. Notice is sent to all concerned Ministries/Departments who are required to furnish their comments to the Ministry of Labour within 60 days. On the basis of the reply received from the concerned Ministries/Departments or if no reply is received after the expiry of the period of 60 days, the Ministry decides whether the dispute in question should be referred to the Central Government Industrial Tribunal for adjudication or not.

There are certain conditions on which the Central Government is refusing to refer a dispute for adjudication. They are staleness of case; *prima facie* no industrial dispute exists; legal remedies are available; and the matter is already *sub judice*. These are the areas in which the Government is refusing to refer it for adjudication.

The hon. Member, Shri Thawar Chand Gahlot, has raised, why not a Financial Memorandum has been attached to the Bill. There are no financial implications in this Bill which is largely procedural. Hence no Financial Memorandum has been attached to this Bill.

Again, my distinguished colleagues Shri Basu Deb Acharia Shri Ramendra Kumar asked about the latest status of recognition of the trade unions through secret ballot. At present there is no law of recognition of trade unions through secret ballot. There is a procedure for conducting of verification of membership in the Madhya Pradesh Industrial Relations Act and the Bombay Industrial Relations Act under which secret ballot can be one of the methods for verification of membership of the trade unions for the purpose of recognition. In Andhra Pradesh and Orissa, the secret ballot is being used as one of the means for verification of membership for the purpose of recognition by an administrative arrangement. Taking recourse to secret ballot as one of the methods for verification of the membership is left to the labour courts in Madhya Pradesh and Maharashtra.

My distinguished colleague, Shri Bhargava, has raised about the payment of gratuity and other benefits. The payment of gratuity does not come under the purview of the I.D. Act. There are other laws for this and other modes of enforcing them.

My distinguished colleague, Shri Ramendra Kumar, asked about the latest position regarding workers' participation in the management. That has been raised by Justice Lodha and others also.

16.00 hrs.

A Bill in this regard was introduced in the Rajya Sabha in the year 1990. There was an intensive debate and discussion on the Bill. At the end of the debate,

there were few suggested modifications to the Bill. The Bill was then referred to a Select Committee. The Bill was returned at the end of the Tenth Lok Sabha with the observation that the suggested modifications may be considered in the light of the changed economic situation.

The Bill is proposed to be brought up in the forthcoming tripartite meetings of the SLC and ILC which are meeting within the course of this year.

My dear colleague, Shri Topdar raised a point regarding the role of the BIFR in the revival of sick industrial undertakings. As the House is aware, the BIFR is a statutory body under the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA). The qualification of the members of the Board has been specified in the Act. The procedures for determination of sickness, reporting of sickness to the BIFR, investigation into the causes of sickness and appointment of an Operating Agency for revival of sick industrial undertakings have been laid down in the Act.

The BIFR comes under the administrative control of the Ministry of Finance, Department of Banking. It is an independent, autonomous, statutory body which acts largely on its own within the purview of SICA. It is mandated to investigate the industrial sickness with a view to coming to a conclusion whether to revive or wind up the establishment, depending on the viability or otherwise of the revival proposal...*(Interruptions)*

SHRI RAMESH CHENNITHALA (Kottayan) : Madam, at four o'clock, discussion under rule 193 is to be taken up.

MR. CHAIRMAN : Let the Minister finish his reply at least.

SHRI M. ARUNACHALAM : Some of my colleague have raised the point regarding definition of 'workman'. The present definition of 'workman' also includes supervisory personnel drawing wage up to Rs.1600 per month. There is no wage ceiling for non-supervisory workmen.

Request have been received from time to time to enhance the wage ceiling laid down in the Act.

A set of comprehensive amendment proposals is proposed to be brought before the forthcoming tripartite meeting of the SLC scheduled to be held in September, 1996. This includes an amendment to the definition of 'workman', including wage ceiling of the workman.

My distinguished colleagues Shri Pradeep Bhattacharaya and Shri Basudeb Acharia raised a point regarding contract labourers. The Contract Labour (Regulation and Abolition) Act, 1971 does not provide for regularisation of retrenched contract labourers. The Ministry of Labour, on receipt of complaints from time

to time on the plight of workmen of such retrenched contract labour, has taken up their regularisation with the Chairman of the Airport Authority of India and the Ministry of Civil Aviation.

With these few words, I once again thank all the hon. Members who have given their valuable suggestions. When we bring a comprehensive legislation, we will try to incorporate all the positive aspect of the suggestions.

With these words, I request the hon. Member to withdraw his Statutory Resolution and also request the House to pass this Bill.

MR. CHAIRMAN : Prof. Prem Singh Chandumajra is not present.

The question is :

"That this House disapproves of the Industrial Disputes (Amendment) Third Ordinance, 1996 (No.23 of 1996) promulgated by the President on 20 June, 1996."

The motion was negatived.

MR. CHAIRMAN : The question is :

"That the Bill further to amend the Industrial Disputes Act, 1947, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN : The House will now take up clause-by-clause consideration of the Bill.

The question is :

"That clause 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI M. ARUNACHALAM : Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN : The question is:

"That the Bill be passed."

The motion was adopted.

[English]

MR. CHAIRMAN : Now, we shall take up Item Nos. 19 and 20 together. Shri Guman Mal Lodha

(Interruptions)

SHRI RAMESH CHENNITHALA (Kottayan) : Madam, yesterday it was decided that CTBT will be taken up at four o'clock.

[Translation]

MR. CHAIRMAN : Today, CTBT would be discussed last of all.

(Interruptions)

MR. CHAIRMAN : It is not listed for now. It is listed at the end.

SHRI GIRDHARI LAL BHARGAVA : It was announced by the Chair that it cannot be taken up at 4.00 p.m. today.

SHRI S. BANGARAPPA (Shimoga) : Madam, while the Deputy-Speaker was in the Chair, he said that the CTBT matter was coming up at 4.00 p.m. today. He announced it in the open House.

[Translation]

MR. CHAIRMAN : As per the information available with me, Item Nos. 19 and 20 will be taken together.

(Interruptions)

SHRI GIRDHARI LAL BHARGAVA : As you please.

16.08 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL
OF ARBITRATION AND CONCILIATION (THIRD)
ORDINANCE

AND

ARBITRATION AND CONCILIATION BILL

[English]

JUSTICE GUMAN MAL LODHA (Pali) : Sir, I beg to move:

"That this House disapproves of the Arbitration and Conciliation (Third) Ordinance, 1996 (No.27 of 1996) promulgated by the President on 21st June, 1996."

Madam, today we are discussing the Arbitration and Conciliation Bill, 1996 and the Ordinance which preceded it. The first question which requires our consideration is that this is yet another example in the series of the misuses of Ordinance making power under the Constitution. Time and again, we have pointed out that the ordinance making power under the Constitution is to be used very sparingly as it is only when some such extraordinary urgency arises when His Excellency, hon. President is intimated that because Parliament is not in session and the situation warrants that some law has to be made immediately without waiting for the Parliament to come into session. Therefore, the Government, the Cabinet, requests the hon. President to use the emergency extraordinary power of Ordinance-making and issues the Ordinance.

Now, this is one of those occasions where again and again three Ordinances have been issued one after the other as is obvious. The reasons which have been given for these Ordinance - first lapsing, then second Ordinance being issued and that also being allowed to lapse and then the third Ordinance being issued - are wholly inadequate, illegal, insufficient and fail to carry any conviction.

The subject which is dealt with in this Ordinance is regarding arbitration. We have got an existing law regarding arbitration since 1940 or even earlier, 1937, and a few other amendments and laws. So, arbitration is not a new concept. In fact, in our country, there is an age old saying '*panch parmashwa*', that is, a person who commands respect in a village or in a particular area is respected like God; he can administer and deliver justice to all without any legal formalities, technicalities, requirement of litigation, filing of cases, reply, evidence, cross-examination, documents, arguments and prolonging it for years and years together. That concept of '*panch parmashwa*' is the concept of arbitration, and that arbitration has been existing in this country since 1940 and even earlier. There were various legislations. Therefore, it is not a new phenomenon that is arising overnight for which His Excellency the President of India was required to exercise the extraordinary power. I fail to understand why the Ordinance making power was misused on such a piece of legislation for which there was no urgency.

Then, there is another aspect to which I would draw your attention. In this Arbitration and Conciliation Bill, we find that the provisions which have been made expressly say that so far as its application is concerned, some parts of it would apply to the whole country - India - and some parts of it would apply to India, except Jammu and Kashmir. Now, it is difficult to understand. In matters of arbitration, why should an exception be made for Jammu and Kashmir. We are already suffering on account of such differences and discrimination in making and application of the laws. I may remind the hon. Law Minister that even when the Forty-Second amendment was made to the Constitution and the Preamble to the Constitution was amended, in which 'integrity', 'socialism' and 'sovereignty' words were introduced, at that time -secularism and integrity, these two important pillars of the Preamble were introduced by the Forty-Second amendment, for the first time, in the Constitution - the most surprising thing we find is that when the Adaptation order was passed for application of the Forty-Second Amendment to Jammu and Kashmir, other phrases of the Preamble were applied to them, but secularism and integrity were not applied, as if the idea was...