

13.37 hrs.

Title: Introduction of the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001.

THE MINISTER OF STATE IN THE MINISTRY OF FINANCE (SHRI BALASAHEB VIKHE PATIL): Sir, on behalf of Shri Yashwant Sinha, I beg to move for leave to introduce a Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985.

MR. SPEAKER: Motion moved:

"That leave be granted to introduce a Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985."

MR. SPEAKER: Shri Basu Deb Acharia, this is introduction stage. You can talk on technical points only, not on the merits of the Bill.

* Published in Gazette of India, Extraordinary Part-II, Section-2, dated 30.8.2001

*SHRI BASU DEB ACHARIA (BANKURA): Sir, the Sick Industrial Companies (Special Provisions) Act was enacted in 1985 after which the Board of Industrial and Financial Reconstruction was constituted. We know that there are deficiencies in the Board. In spite of that, the main purpose of setting up that Board was to revive the sick Central public sector undertakings and sick private sector companies. If that Act is repealed, what would happen to those sick public sector undertakings which have been referred to BIFR and which are being examined by BIFR?

Just now the Minister of Law has introduced a Bill to amend the Companies Act. There is now a proposal to constitute the National Company Law Tribunal. It will be constituted later on. But, after the repeal of the existing Sick Industrial Companies (Special Provisions) Act, what will happen to those industries? The main purpose of repealing the existing Act is to expedite closure of the public sector undertakings. BIFR is examining them and in most of the cases trying to revive them. Even the recommendation of this quasi-judicial body are not being implemented by the Government of India. Even the financial institutions are not abiding by these recommendations. I know of a number of cases where the Government of India refused to provide financial assistance, refused to implement the recommendations of BIFR.

There are deficiencies, and those deficiencies can be removed. By replacing BIFR with the National Company Law Tribunal, the purpose of setting up of BIFR cannot be fulfilled. The Government is finding it difficult to deal with BIFR. The Government wants to close down some of the public sector units. But, BIFR is examining all aspects for their revival and the Government is not able to close down those units.

Even now, there are some cases where BIFR has not given the final order. But in spite of that, the Government has ordered to close down those public sector undertakings.

MR. SPEAKER: Shri Basu Deb Acharia, Rule 72 is very clear.

SHRI BASU DEB ACHARIA : Sir, there is no need to review this. This should continue. A new organisation should not be created to close down the PSUs expeditiously.

SHRI BALASAHEB VIKHE PATIL: Hon. Speaker, Sir—

MR. SPEAKER: Mr. Minister, there are two other Members who had given the notice to speak on its opposition. Let them submit their points.

SHRI N.N. KRISHNADAS (PALGHAT): Sir, BIFR is the only functioning system in our country to protect the sick industries of our country. If this Bill is passed, the existing system of BIFR would be wound up. But there are very many industries which have been referred to BIFR and no decisions have yet come. So, what will happen to the future of those industries? Everybody knows about BIFR. It is a semi-judicious body.

Sir, almost all the sick industries which have been referred to BIFR have been closed down.

MR. SPEAKER: Shri Krishnadas, you should be aware of the rules. This is not the consideration stage of the Bill.

Here, you are speaking about the merits and demerits of the Bill. That can be done during the time of the consideration stage.

SHRI N.N. KRISHNADAS : Right, Sir. That is what I wanted to say at the stage of introduction of the Bill.

SHRI SUNIL KHAN (DURGAPUR): Sir, I rise to oppose the introduction of the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001. How can the Government repeal this without considering other alternatives or mechanisms about revival of the sick public sector undertakings? What will be the fate of the 12 lakh to 15 lakh employees who are employed in the different public sector undertakings?

Sir, just now, the Companies (Amendment) Bill, 2001 was introduced by the hon. Law Minister, Shri Arun Jaitley. He referred about the Tribunal.

MR. SPEAKER: Shri Sunil Khan, come to the reasons. What is the reason that you are opposing it?

SHRI SUNIL KHAN : Sir, we are opposing it because this is nothing but the illogical outcome of the Government's own acts to the closure and winding up of the several vital public sector undertakings. This is my submission. How will it be overcome? The vital reason for winding BIFR, in my view, is that the Government wants to close and wind up the public sector undertakings.

So, I oppose the introduction of this Bill.

MR. SPEAKER: Again, you are raising the merits and demerits of the Bill. It is not a technical point.

Now, Shri Lakshman Das -- not present.

Shri Rupchand Pal -- not present.

Now, the hon. Minister.

SHRI BALASAHEB VIKHE PATIL: Mr. Speaker, Sir, through you, I must assure my colleague Shri Basu Deb Acharia and all the hon. Members of the House that there will be no vacuum about the labour after repealing this Bill at the companies level. It will be going on simultaneously. So, there is no vacuum.

As far as BIFR is concerned, everybody knows and he knows very well that a number of companies are not functioning at all...*(Interruptions)*

SHRI ANIL BASU (ARAMBAGH): Sir, time and again, we have been talking in the House that we must give more teeth to BIFR. But they are talking about winding up BIFR.

MR. SPEAKER: Shri Anil Basu, you have not given any notice. Those Members who gave notice have already raised their points. Please take your seat now....*(Interruptions)*

SHRI ANIL BASU : Sir, the hon. Minister is misleading the House...*(Interruptions)*

MR. SPEAKER: Please take your seat. This is not the stage to oppose now.

SHRI BALASAHEB VIKHE PATIL: Sir, my learned colleague Shri Arun Jaitley has just now introduced the Companies (Amendment) Bill about which Shri Basu Deb Acharia made a point. The Tribunal provision is there. We are creating some funds. It is 0.01 per cent. Initially, we are starting with Rs. 5 per lakh, which means, 0.005 per cent.

The maximum is point one per cent. Naturally, the funds would be created and the workers' interest will be taken care of by that. If you see the objectives, you would find that they are very specific.

SHRI BASU DEB ACHARIA : After closing down the units, how would you safeguard the interest of the workers?

MR. SPEAKER: Shri Acharia, you are creating a new precedent in the House.

SHRI BALASAHEB VIKHE PATIL: You can see that the limit of Rs.20,000 under Section 230 of the Companies Act, 1956, could be annexed on the recommendation of the Ministry of Labour as and when they feel to do so. As you know, the Eradi Commission was appointed. If we bring the repeal Bill late, you ask why did we bring it late and if we bring it on time, you say that it is unconstitutional.

Sir, I think, there is no vacuum and I feel that the interest of the workers is totally protected.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS AND MINISTER OF SHIPPING (SHRI ARUN JAITLEY): Sir, I seek to support what my learned colleague, Shri Patil has said. I must say that even though

normally at the stage of introduction only limited questions relating to Constitutional *vires* or legislative competence are asked, questions relating to the merit and particularly regarding workers' interest have been asked.

Sir, let me assure Shri Basu Deb Acharia and his colleagues that if you read the first law, its entire object is to do precisely what you are suggesting. Its objective is to correct the deficiencies as far as BIFR is concerned. The deficiencies of the BIFR were following.

After going through this Act, I thought if there is one Party which would support the first Bill for the protection of the labour interest, would be your Party. The deficiency in BIFR was that it was one of the three fora which are dealing with commercial insolvency. The CLB deals with it and the High Court deals with it. The delays are caused. Now, we have consolidated all jurisdictions under one head.

The second deficiency was that after a company became terminally ill, and 100 per cent net worth became negative, it went into BIFR. Now, once 100 per cent net worth is negative, and the liabilities are more than the reserves and the share capital, the revival itself was very difficult. Therefore, that was a defect in the BIFR model.

Now, we have created a situation in which when your performance is sliding and 50 per cent of net worth becomes negative which means still there are assets left and they are more than the liabilities, you go before the Tribunal for corrective action.

The third deficiency was that BIFR was taking years to formulate a scheme and during those years, the workmen were not getting any money. The revivals were also not possible. In the new Bill, we have compartmentalised it into stages of 30 days, 60 days and so on, so that the entire proceedings can be got over in less than a year. The preference is given to revival of the companies. If revival is not possible, then only, as a last resort, you have to wind up.

The other defect with BIFR was regarding workers interest during the pendency of proceedings. You are right when you say that they starve during the period when they are not given salaries. For the first time, we have said that a corporate cess will be levied on the turnover of the entire private sector. We will lay down guidelines for that purpose. The Tribunal will have power to make interim payment to the labour from the centralised fund if the concerned company is not able to pay them. So, some subsistence amount will be given.

Now, all those deficiencies which were seen in the BIFR are sought to be corrected with the first legislation. You can take it that both these legislations will be discussed and approved simultaneously by the House. So, when one goes out, the other Tribunal will come in. All cases covered by the BIFR, naturally, will come into this forum for the reason that criteria in BIFR is 100 per cent net worth negative and here it is 50 per cent. So, if you are 100 per cent negative, you certainly are going to have 50 per cent. So, you will come into the new forum. On the contrary, your Party should have welcome this. How many companies are actually being revived and how much care has been taken for the workers interest in the BIFR? This is the forum which has been created keeping all these deficiencies in mind. It will certainly be considered in the next Session or later on by the House. Whenever we would debate it, you would find that there are important suggestions which are protecting the interest of all segments of the society.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985. "

The motion was adopted.

SHRI BALASAHEB VIKHE PATIL: Sir, I introduce the Bill.
