

**Title:** Discussion on the Designs Bill, 2000. (Not concluded)

**14.38 hours**

## DESIGNS BILL\*

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (DR. RAMAN): Sir, I beg to move:

"That a Bill to consolidate and amend the law relating to protection of designs, as passed by Rajya Sabha, be taken into consideration."

SHRIMATI MARGARET ALVA (CANARA): Sir, he has to make some introductory remarks.

MR. SPEAKER: He has already moved the consideration motion.

SHRI ANIL BASU (ARAMBAGH): Sir, he is supposed to speak.

MR. SPEAKER: At the time of reply, he will speak.

SHRI ANIL BASU : It is an important legislation. The Minister must make some introductory speech, and that is the convention of the House.

MR. SPEAKER: Mr. Minister, do you want to make some introductory remarks?

SHRI ANIL BASU : Sir, has he been introduced to the House?

MR. SPEAKER: He has already moved the consideration motion.

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\* Published in the Gazette of India, Extraordinary, Part-II, Section 2, dated 20.4.2000.

### **14.40 बजे** (श्रीमती मार्ग्रेट आल्वा पीठासीन हुईं)

**डॉ.रमण :** सभापति महोदया, यह प्रस्ताव, सदन के सामने डिजाइन विधेयक, 1911 को रद्द करने तथा प्रतिस्थापन किये जाने पर विचार किये जाने और डिजाइन विधेयक, 1999 नामक एक नये कानून को बनाने के सम्बन्ध में है। सरकार की पहल डिजाइन कानून को आधुनिक बनाने के सम्बन्ध में है ताकि नवीनता तथा मैक्रो स्तर में बदलाव लाकर मौलिक क्रियाकलापों को प्रोत्साहित किया जा सके और इसे अन्य कानूनों के अनुरूप बनाया जा सके।

सदस्य इस बात से सहमत होंगे कि विश्व फोरम में, डब्ल्यू.टी.ओ. में, अपने उद्देश्यों की प्राप्ति हेतु भारत को एक मजबूत स्थिति हासिल करनी पड़ेगी। टिप्स, डब्ल्यू.टी.ओ. के कई करारों का एक भाग है।

भारत में पंजीकरण और डिजाइन की सुरक्षा के सम्बन्ध में कानून के रूप में डिजाइन अधिनियम, 1911 है। इस कानून के लागू होने के नौ दशकों के बाद भी इस अधिनियम में एक बार भी संशोधन नहीं किया गया है। इस अवधि में प्रौद्योगिकी में काफी परिवर्तन आया है, जो कि विज्ञान और इंजीनियरी में उन्नति होने के कारण आया है। टिप्स करार के कारण भी यह आवश्यकता हुई है कि कानून में कुछ संशोधन किया जाये। पैरिस कन्वेंशन में शामिल होने के पश्चात भारत को इस विधेयक में कुछ संशोधन करना अनिवार्य हो गया है। वर्तमान कानून को विश्व स्तर की घटनाओं के अनुरूप संशोधित करना देश के लिए हितकारी है।

प्रस्तावित विधेयक में डिजाइन से सम्बन्धित कानून में संशोधन तथा प्रतिस्थापना करने का प्रस्ताव है ताकि डिजाइन क्रियाकलापों को बेहतर सुरक्षा प्रदान की जा सके। चूंकि यह एक प्रतिस्थापन विधेयक है, अतः 1911 के अधिनियम को रद्द कर दिया जायेगा और इसकी इस विधेयक द्वारा प्रतिस्थापना कर दी जायेगी।

डिजाइन किसी वस्तु की बाहरी आकार या साज-सज्जा से सम्बन्धित है। किसी भी औद्योगिक प्रक्रिया से तैयार वस्तु और आर्कैड होनी चाहिए।

डिजाइन के सम्बन्ध में इस विधेयक की मुख्य विशेषताएं जो माननीय सदस्य जानना चाहते हैं, इस प्रकार हैं-मूल की परिभाषा देना, गैर-पंजीकरणीय डिजाइनों की शिनाख्त की व्यवस्था, प्रशासनिक उपायों को सरल और उपभोक्ता अनुरूप बनाया जा सके, कम्प्यूटर पर डिजाइन आबंटन रजिस्टर की व्यवस्था, अर्थ-दण्ड को बढ़ाया गया है, नियंत्रक को ज्यादा शक्तियां प्रदान की गई हैं।

यह जो व्यवस्था की गई है, इस व्यवस्था में जो 1911 का कानून था, उस कानून के बाद काफी तेजी के साथ प्रौद्योगिकी में परिवर्तन आया है। टिप्स के और इंटेलेक्चुअल प्रापर्टी राइट्स के जितने भी हमारे प्रावधान हैं, उसमें एक परिवर्तन करने की आवश्यकता महसूस की जा रही है और यह सामयिक भी है। आज के इस बढ़ती हुई तेजी के साथ जिस दिशा में हम आगे बढ़ रहे हैं, मैं बाकी विषय इस विधेयक पर विचार किये जाने हेतु माननीय सदस्यों का समर्थन प्राप्त करना तथा इस सम्बन्ध में बहुमूल्य विचार आमंत्रित करना चाहूंगा।

MR. CHAIRMAN : Motion moved:

"That the Bill to consolidate and amend the law relating to protection of designs, as passed by Rajya Sabha, be taken into consideration."

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Madam, I would like to bring to the notice of you and the hon. Minister of Parliamentary Affairs that in the Business Advisory Committee meeting, there was no mention that the Bill being discussed now would be discussed in the House today. If it was decided to take up the Bill today, intimation could have been given well in advance and the Members could have come prepared. We found it in the morning all of a sudden that this Designs Bill is listed in today's agenda. Is it the way to run the House? Whichever may be the Bill, should not the Parties be involved in it? The Business Advisory Committee did not list this Bill for today. This is not proper.

MR. CHAIRMAN: The Business Advisory Committee has allotted this time earlier.

SHRI PRIYA RANJAN DASMUNSI : I would like to make it absolutely clear that the BAC did not allot this time. In the last meeting of the Business Advisory Committee it was decided that only the Demands for Grants, Private Members Business, price rise and drought will be discussed. Nothing beyond that has been decided. I, being the Chief Whip of the Congress Party, attended the meeting. I know the minutes. It is not that we do not want the Bill to be discussed and passed. We want some advance notice so that the Members can come prepared. It cannot be said that since it is placed in the List of Business, Members should come and give their names. This is not the way the Parliament has to function.

SHRI ANIL BASU (ARAMBAGH): Madam, I am on a point of order. Normally when a new Bill is introduced in the House, it is sent to the Standing Committee for detailed examination. That part has been done away with. During the recess period the Government had raised the prices and withdrew subsidy on essential commodities. Already there is a ruling from the Chair.

MR. CHAIRMAN: As far as your point is concerned, this is not a new Bill. It had already been passed by the Rajya Sabha. Once it has been discussed in Rajya Sabha it cannot be sent to a Standing Committee in Lok Sabha.

SHRI PRIYA RANJAN DASMUNSI : Let the Bill be discussed in the House. We do want to participate in the debate. But let enough notice be given to the Members so that they can come prepared. Nobody knows anything about the Bill now.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF INFORMATION TECHNOLOGY (SHRI PRAMOD MAHAJAN): I would like to reply to what Shri Priya Ranjan Dasmunsi has said. I beg of you, Madam, to give a clear-cut ruling as to how the business of the House be conducted.

The function of the Business Advisory Committee is to allocate the time to different pieces of legislation. Is it not true that the Business Advisory Committee has allotted one hour's time to the Designs Bill? The job of the Business Advisory Committee is over when it allots time to a particular item of business which has to be taken up in the House.

The Business Advisory Committee has already allotted one hour for this business. It is the job of the Government to decide the business of the next day. It is the prerogative of the Government to bring the business and to allot time to Government and accordingly no prior intimations are given except the Agenda Paper which goes to the houses of hon. Members who will come to know which Bill is likely to come up, when and all that is enough because first of all the Bill has been introduced. Sufficient time has lapsed. So, for consideration and passing of a Bill, it is the prerogative of the Government to come out on any day's business, according to the wish of the Government. It is not true that the Business Advisory Committee meeting to which he is referring decides the minute to minute business of the next week. No. It is not true. In the Business Advisory Committee which last met, we roughly talked about what we will take up under Rule 193 and on which day we will take up the Finance Bill. But that does not prohibit us to bring Government business without disturbing the original Bill.

Every Thursday or Friday whenever we go to Private Members Bill, we get time from 2.30 p.m. to 3.30 p.m. unlike the other House. Even at that time, the Government has to fill up the business. If I do not fill up the business, then tomorrow you will say "You do not have the business in the House. Why do you bother the House at 2.30 p.m.?" I have to pass a regular business. So, I have to give the business at 2.30 p.m.

Lastly, you rightly said that as far as sending any Bill to the Standing Committee is concerned, it is the prerogative of the Hon. Speaker or the Chairman of either House. The Session started. This bill came up in the last session. When discussion started on the Designs Bill in Rajya Sabha, there was no Standing Committee. So, naturally it was passed. After one House passes it, you cannot send it to a Standing Committee in the second House. ...(*Interruptions*) Your House can send it to a Select Committee, but your House cannot send it to a Joint Committee. Then the sense of the House will have to be taken. It is not that you send the Bill anywhere you want.

The House has to decide it.

The hon. Minister was there and he gave his speech. We started the discussion. In between the discussion, you say this. So, I have not broken any parliamentary law or convention and I beg of you to give a ruling on this objection raised by Shri Priya Ranjan Dasmunsi.

SHRI PRIYA RANJAN DASMUNSI : I strongly refute what the Parliamentary Affairs Minister has said. I do not want the minutes of the Business Advisory Committee to be discussed in the House because that is not the proper thing to do. But I understand the Government made their point very clear that we want to discuss the Demands for Grants and Budget in all its aspects. Accordingly, time should be allotted and then the business which is pending before the hon. Speaker under Rule 193 or whatever Motion placed by various Parties should be given priority. It was categorically decided in the meeting that no other legislation shall take place. Even yesterday, the Parliamentary Affairs Minister would have said that we will get two hours extra time and what we would do during that time. Could you bring a Bill or legislation? I do not mind. I am not obstructing. I would have been ready. But if you say that you have to decide your prerogative, then I am sorry to say that I will not attend the Business Advisory Committee.

SHRI PRAMOD MAHAJAN: I have not broken any convention. I am not going to take it lightly. ...*(Interruptions)*

MR. CHAIRMAN: Shri Anil Basu, please sit down. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : But you cannot reply like this. You cannot speak like this everyday as you desire.

What is the sanctity of the Report of the Business Advisory Committee? ...*(Interruptions)*

MR. CHAIRMAN : Shri Basu, please sit down.

...*(Interruptions)*

MR. CHAIRMAN: I am conducting the House. Please sit down. It hurts me when you do not listen to the Chair.

...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : The business is transacted in the House not only by the parties in Government but also with the co-operation of the Opposition. We always co-operate. There is no point in I losing my temper or the Minister of Parliamentary Affairs losing his temper....*(Interruptions)*

SHRI LAKSHMAN SINGH (RAJGARH): Please do not interrupt him. He did not interrupt when the Minister of Parliamentary Affairs spoke. ...*(Interruptions)*

MR. CHAIRMAN: Shri Dasmunsi can look after himself, on his own.

...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : If I am not wrong, with all my respect to the Minister of Parliamentary Affairs, it was categorically decided that in this Session up to the 4<sup>th</sup> of May they would not be bringing in any legislation. Accordingly, we have briefed all the hon. MPs of our party to get prepared for the subjects that would come before the House. ...*(Interruptions)*

If the hon. Minister of Parliamentary Affairs feels that if some time is found we could pass some legislation, there is nothing wrong in that. As he keeps us informed from time to time, he could have conveyed it to us and we would have been happy. But this was not so. ...*(Interruptions)*

You have now found some two hours' time and you have decided to push this through. We object to this. This is not the way. ...*(Interruptions)*

MR. CHAIRMAN: I am not allowing a discussion on this.

...*(Interruptions)*

SHRI G.M. BANATWALLA (PONNANI): If you allow me, I have something to say.

It is not true that the Bill has come up suddenly. I differ from the Chief Whip of the Congress Party. I say, sufficient notice has been given. A person like me, a responsible person is before you.

It is with a heavy heart that I have to support the point made by the hon. Minister of Parliamentary Affairs. The fact is, we received on Monday a List of Business for Wednesday and in that List of Business, the Designs Bill has been mentioned. We were put on alert on Monday itself though later on some other things might have come up. But the thing was there.

A second point that I want to make is, it was passed in the Rajya Sabha. It has been laid on the Table of the House and the Business Advisory Committee has allotted the time. That is sufficient indication to the Members and Members like me studied the Bill and gave lots of amendments. Those amendments have been circulated.

I say, Madam Chairperson, I have been inconvenienced. This Bill has been slated on the List of Business several times but has not come up. All those times, I put off my work and came here in order to be present to move my amendments, again and again getting inconvenienced. Now, I thought that by 3.30 p.m. we might be able to go through the whole thing. But it seems that it will now be going into the next week. I think, some error is there, some mistake is there on the part of the Chief Whip of the Congress (I), which he should correct.

MR. CHAIRMAN: I think, it is very clear. The Minister has already moved the Bill for consideration and the discussion has started. Besides, I have before me, all the amendments, notices of which have been given. It was listed in the List of Business for the week. I think, we have had enough notice. So, we shall proceed with the discussion. I now call Shri Anadi Sahu.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Can the Minister of Parliamentary Affairs say why he has done this?  
...(Interruptions)

SHRI PRAMOD MAHAJAN: I have explained it to the Deputy Leader of the Congress (I) only in the morning.  
...(Interruptions)

MR. CHAIRMAN: Hon. Members, please sit down.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): The storm has subsided now. We can go over to the debate.  
...(Interruptions)

Shall I continue? Madam Chairperson, from 1911 to 2000, we had travelled nearly 90 years. In these 90 years, the world technically has shrunk, not geographically. In this shrinkage process, we have come together; and in coming together, we have found new activities, new designs, new interests, new investments and new research methodologies.

That is why, the Designs Act of 1911 need to be amended or rather overhauled within these 90 years. Then we had the WTO rounds, the Uruguay rounds, the Paris Convention and all those matters about which I need not say. The most important is the Trade Related Intellectual Property Rights, the TRIPS Agreement in which about 40 items have been listed of which patents, designs, trade marks are important.

Designs are not patents. There cannot be any confusion about patents and designs. So far as designs are concerned, it is an intellectual manifestation of things as to what type of designs will be there. My friend from West Bengal would definitely agree with me that a particular type of saree designs are being prepared, ornament designs are being prepared, painting designs are being prepared and collar designs are also being prepared. When these designs are prepared, a person has to put in a lot of efforts. In preparing those designs, it is most necessary that his ideas and the technology should be safeguarded or protected.

As I said earlier, the world is shrinking, markets are booming and new designs to please the eyes, to please the mind and other sensory organs are coming up. Again as I said earlier, the most important thing is to protect these things with a view to take a giant stride in the World Trade Organisation.

In approach. But Clause 6 is positive in approach. It would be better to redraft Clause 4 on the lines of Clause 6.

Clauses 12 and 13 are for restoration of lapsed designs. It is good that some of the designs which have lapsed are brought to the market or auction. But in the initial stage itself, the Government have to provide certain rules. It has not been provided here. The Government may frame rules under Clause 47. Unless the restoration of lapsed designs is codified under Clauses 12 and 13, it may lead to confusion and again it may lead to litigation. Since this is a new Act, all these matters have to be kept in mind.

As far as the piracy of registered designs is concerned, I would like to say that after the restoration of lapsed designs, if we invoke Clause 22 for piracy, it would be very difficult to deal with that situation because it is very

difficult to prove it. I do not know in what manner it is going to be handled.

The most important thing is Clause 34. It says that in case of doubt the Controller has to consult the Government. That is not proper. As I said earlier, it would lead to litigation. In certain cases, the Controller, in order to get away from the difficulties, may refer the matter to the Government. In that process it would be delayed and it would also lead to litigation. It is known that a technocrat will be the Controller. He must have enough powers to decide as to what has to be done about design, about piracy and about lapsed designs. I feel, under no circumstances should he come to the Government for advice. The Government should only frame rules and it should allow him to continue with it. It should not contain a provision to take up the matter with the Government. As I said earlier, restrictive trade practices have been vindicated because of the WTO agreement. Clause 42 is about the restrictive trade practices. Keeping in view the TRIPS agreement, WTO agreement and the Uruguay round, Clause 42 is very good because other countries which are having agreements with us may not feel that we would ditch them at critical moments. So, Clause 42 is very good.

The earlier Designs Act was talking about the United Kingdom and other Commonwealth countries. But later on, we have many countries with which we have reciprocal arrangements and for that matter, a new law is necessary. The adage is that old order changes yielding place to new. That is the purpose for which this Designs Bill has been brought forward before Parliament.

In supporting this Designs Bill, I have certain reservations. The Designs Bill takes into account the Trade and Merchandise Act, the Patents Act and so many other Acts. It is slightly jumbled up. So far as the Controller of Designs is concerned, it is given in Clause 3 of the Act. The Controller controls patents, designs and trademarks. He acts as the Controller for three Acts. It may create confusion at a later stage. Mostly these are civil proceedings and civil proceedings are cumbersome processes. So, it may create some confusion because sometimes there will be clash of interests, sometimes variations of ideas and orders.

According to Section 4 of the Trade and Mercantile Act, the original Controller is appointed. In Clause 3, only a reference is made to Section 4 of the Trade and Mercantile Act. There is some confusion, which may come up. We have Controller and Examiners. There will be a number of regional Examiners at different places. The regional Examiner, in examining designs and giving his orders, may follow a particular path or a particular idea or rule.

#### **15.00 hrs.**

Another Examiner may follow a different idea. Some confusion may be created among the Examiners. Since this new Act, under Clause 27, is going to give privileges to the Controller and Examiners, it may create some confusion. It may lead to civil litigation. Many civil litigations may not be decided immediately. This is a matter which the hon. Minister may kindly keep in mind while deciding about the Controllers and Examiners. So far as registration of designs are concerned, wording in Clause 4 is negative in approach. May I say as to how it is negative? It says that a design which is not new or original shall not be registered. I think this will create problems later on. It should have been positive

Clause 45 relates to the report of the Controller. It says that it has to be placed in Parliament. I again refer to that Clause which says that in case of doubt, he would refer the matter to the Government. Clause 45 is very important because all the rules, orders and regulations notified by the Controller would be placed before Parliament. So, Parliament is the supreme authority to decide whether it is in consonance with the rules.

It is a new Act with new provisions. Many of the old provisions have been taken away. But certain loopholes have to be plugged at the initial stage itself so as not to allow any sort of confusion regarding this Act.

These are the things which I have marked during my reading of the Bill and considering the situation which is prevailing in the national and international arena. On the whole, it is a very good Act keeping in view the work being done at the national and international levels. With these words, I support the Bill.

SHRI G.M. BANATWALLA (PONNANI): Madam, Chairperson, it is commendable that the Government has come forward with this Bill. The hon. Minister has done well in coming forward with the new Bill rather than bringing all sorts of amendments to the Act of 1911. I do understand that the Bill is in order to comply with our obligations to the WTO, the World Trade Organisation, but happily the Bill is a timely Bill. Our technocrats are making great strides and protection of intellectual property rights is not the concern today of only the industrially advanced countries. I have, therefore, to congratulate the Government to have come forward with a comprehensive Bill on the subject of vital importance.

There are various issues that need to be considered. On a subject of this type we have to balance two factors. On



the one hand there is the need to promote effective and adequate protection of the intellectual property rights. These rights have to be adequately and effectively, I emphasise both the words 'adequately and effectively', protected. On the other hand, we have also to see that in our zeal for protection we do not create barriers to legitimate trade. So, these two factors have to be properly balanced and accordingly we can meet the situation.

Here, I have to make an important submission. The Bill is deficient in respect of protecting the legitimate rights which we call as the intellectual property rights. There are certain internationally accepted norms of protection. Even the WTO Agreements on Intellectual Property Rights mention various measures that can be taken for the purposes of protection of those rights. But I am surprised to find that various such internationally accepted measures of protection and various such measures of protection which are allowed as far as the WTO Agreements are concerned, have been ignored and have been given a go by in this Bill.

I may, for example, refer to Clause 22 which is in respect of measures to be taken if a person acts in contravention of the Act. This is highly deficient. Clause 22 provides that in case of any person acting in contravention of the Act there shall be legal proceedings. I do not know why the Government deemed it fit to confine these legal proceedings only to matters seeking relief and not laying down any penalty for violation of the Act. That means the owner of intellectual property may seek relief and damages from the person who has acted in contravention of the Act. But then there is no provision for any penalty even if a person deliberately acts and wilfully acts in contravention of the Act. This is a very serious deficiency. I would submit that there is no adequate and no effective protection of the rights of the owner of the registered design. I would like to draw your attention in this respect to Article 61 of TRIPS which says that the member-countries shall provide for penalties including imprisonment, at least, in case of wilful acts of piracy.

So, we find that WTO agreement makes a reference, not only a reference but it says that the member-countries shall provide for penalties and shall also provide for imprisonment in case a person wilfully contravenes the Act. But what type of Act we have which condones even the wilful violation of the provisions of the Act and provides for no penalties. It just says that the owner of registered design can only seek some damages and these damages are also limited up to Rs.25,000. One can understand how much sweat, how much labour and intellect, and how much research goes in having any design. When that right is violated even wilfully then the person responsible for violation is neither subject to any penalty whatsoever nor to any adequate payment of damages. That payment of damages is also restricted to a paltry sum of Rs.25,000 in the present day. Twenty-five thousand rupees in the present day in the case of industrial design, I would say is nothing but a mockery of getting the industrial designs registered with our authorities.

Then look at how the owners of the registered designs are left high and dry. I have the articles of the WTO agreement here which can be quoted. But then that would take a long time. Article 44 is with respect to injunctions that can be given by the courts.

Article 44 talks about effective action against infringement and article 61 about criminal penalties. But all these are not to be found incorporated in our Bill which is supposed to protect our people from violation of their industrial designs. I would like to emphasize this particular fact.

Take the question of seizure. If a person violates the provisions of the Act, there is nothing here to show that we can go to the court to ask for the seizure of the infringed articles meant for commercial purpose. Nothing is provided on this though the WTO agreement gives us the right to provide for the same. There is no injunction also to be obtained against a person who is infringing the provisions of the Act. I would, therefore, say that clause 22 is a very sad clause and is highly deficient with respect to the protection of the legitimate rights of the owner of industrial designs.

Madam Chairperson, there are several clauses over here which need a relook. I am sorry that this Bill has not gone to the Standing Committee nor is it vetted by a Select Committee or a Joint Committee in order to remove the various deficiencies. Take the question of clause 44, sub-clause (1). What does it say? If a person in UK or in a convention country applies for registration of his design in UK or in that convention country, then in that case he has a priority over any application for registration in our country. What a wide priority to give! I can understand if a person in UK or in a convention country applies for registration of licence in his country gets priority over applications made in India after the date of his application in UK or in the convention country. I can understand that because he was prior in time. But, supposing here in India I apply for registration of an industrial licence today, a person in UK or in a convention country comes to know of it and after one month he gives an application abroad. Even then his application will have priority over my application over here irrespective of the fact that I was the first to have come forward with my design for the purpose of registration. Therefore, it is making a mockery of the entire system of providing adequate and effective protection of the registered designs.

I can understand that we have to fulfil our obligations with WTO. But, then we need not be subservient to the WTO

masters. Here, I am pointing out that we have been so loyal to WTO that we have jettisoned even the protection clause internationally agreed to and incorporated in the WTO by ourselves not incorporating the same in our Bill.

Therefore, though I have said that the Bill is timely, though I have said that there was and is an absolute and practical necessity to have the Bill, I am sorry to submit that the Bill is trying to be true to the WTO more than even what the WTO expects from us. We have jettisoned in our enthusiasm for the WTO and for the WTO masters, we have jettisoned and put our owners of industrial designs at the mercy of the world imperialists. This is something that has to be corrected.

Then, there are several other provisions and if I go into their details, it will require a lengthy time. But then I only ask the Government to compare the provisions of this Bill with the provisions of the WTO Agreement on Intellectual Property Rights on industrial designs. Only then the list of our deficiencies will come forward and in those respects, this timely Bill needs to be corrected.

The hon. Member had already spoken about Controller and how the rights of the controller are limited. I will not go on repeating them. Now, an appeal goes to the High Court. But then, I wonder, with all due respect to our judicial system, whether our judicial system is fully equipped to meet these intricate technical points with regard to the industrial designs. The Government needs to be complimented on one point. It has been provided that the High Court can take the services of an expert. But then look at even our judicial system. The decision given by the High Court is final and no appeal further! The doors of the Supreme Court are sought to be closed which I submit cannot be closed constitutionally. If I go into the constitutional aspect of the same and refer to various articles in the Constitution, that again will swallow a lot of time. I would restrict myself to the statement that the door cannot be closed and we cannot go to say that the order of the High Court even on such intricate, delicate and technical matters of industrial designs should be treated as final.

Madam, let us not rush through the Bill. These are the various aspects. I have come forward with several amendments but then many more amendments will be required in order to see that we give adequate and effective protection to our owners of industrial designs. Passing a Bill is not like fast food that we rush through in a matter of such importance. Therefore, I would only conclude by appealing to the hon. Minister to have a relook at the provisions in order to ensure that the rights of our industrial design owners will be adequately and effectively upheld.

SHRI ANADI SAHU : Madam, with your permission, I would like to say that the hon. Member Shri Banatwalla has missed some points in the sense that so far as designs are concerned, there is some difference between Design Patent and Trade Mark....(Interruptions)

MR. CHAIRMAN : The hon. Minister will reply to the points that he has raised. Please take your seat.

...(Interruptions)

SHRI ANADI SAHU : Patents and Merchandise are different things....(Interruptions)

SHRI G.M. BANATWALLA : I do not know whether the Minister is not effective in tackling the points.

SHRI ANADI SAHU : He will tackle the points.

MR. CHAIRMAN: We will leave it to the Minister. He will answer it.

**डा. रघुवंश प्रसाद सिंह (वैशाली) :** स्भापति महोदय, सरकार की तरफ से जो डिजाइन विधेयक आया है, वह 1911 में लागू हुआ था। हिन्दुस्तान में जो नये-नये डिजाइन बनाने वाले थे, उनकी प्रोटेक्शन के लिए पूरा इंतजाम था लेकिन इस विधेयक के लाने के पश्चात् सरकार ने द्वा किया है कि डब्ल्यू.टी.ओ. के एग्रीमेंट्स से हिन्दुस्तान को जो नुकसान होने वाला है अथवा उससे जो खतरा होगा, उसे कम करने के प्रयास में डिजाइन विधेयक, पेटेंट विधेयक, ट्रेडमार्क विधेयक आदि सभी आ रहे हैं। हमें भरोसा नहीं है कि इन सब विधेयकों के आने से, डब्ल्यू.टी.ओ. से जो नुकसान होने वाला है, उसमें कमी आ सकेगी अथवा जो डिजाइनर हैं, उनको प्रोटेक्शन मिल सकेगा।

हाल ही में डब्ल्यू.टी.ओ. के संबंध में प्रधान मंत्री जी का बयान आया था। जब प्रेस ने पूछा कि 714 विदेशी सामानों के लिए आपने कैसे गेट खोल दिया या जो प्रतिबंध थे, उनको खोलकर आपने हिन्दुस्तान को डम्पिंग ग्राउंड बनाने की इजाजत कैसे दे दी, प्रधान मंत्री जी ने उत्साहपूर्वक उत्तर दिया कि अंतर्राष्ट्रीय न्यायालय में हमारी हार हो गयी है इसलिए अब गेट खोले बिना या हिन्दुस्तान को डम्पिंग ग्राउंड बनाये बिना कोई उपाय नहीं है। डब्ल्यू.टी.ओ. में क्या-क्या दस्तख्त करके आते हैं, इस बारे में पार्लियामेंट में कोई जानकारी नहीं दी जाती। एक दिन ये ऐसा कह देंगे कि हिन्दुस्तान बिक गया, गुलाम हो गया तो हम पार्लियामेंट में उसके बारे में क्या बहस करें। हिन्दुस्तान के सामने एक भारी खतरा है। कभी ऐसा होगा कि जापान वालों ने हिन्दुस्तान के कौर को ही पेटेंट करा लिया। हल्दी, तुसली, बासमती चावल आदि जो चीजें हिन्दुस्तान की धरोहर और विरासत में थी, उन सब चीजों को उन्होंने पेटेंट करा लिया। बाद में कोर्ट में मामला डालेंगे तो हार जायेंगे। फिर यहां बयान दे देंगे कि हम कोर्ट में हार गये, कोई उपाय नहीं है। उसका रजिस्ट्रेशन कराया हुआ है, उसे रॉयल्टी देनी पड़ेगी। जब आसमान टूटेगा तो उसमें मूसर लगाने से क्या वह रुकेगा? यह डिजाइन विधेयक, ट्रेडमार्क विधेयक और पेटेंट विधेयक भी उस मूसर की तरह है। डब्ल्यू.टी.ओ. से हिन्दुस्तान को जो खतरा होगा, उससे बचाने अथवा

उससे कम नुकसान हो, आप इसी में लगे हुए हैं। यह क्या विधेयक लेकर आये हैं? हमने इस विधेयक की एक क्लाज को देखा है। शुरू में लिखा है कि यह डिजाइन विधेयक हिन्दुस्तान भर में लागू होगा। आगे लिखते हैं :-

"The registration of a design shall not be invalidated by reason only of the exhibition or use of or the publication of a description or representation of the design in India during the period specified in this section as that within which the application may be made. "

MR. CHAIRMAN: Shri Raghuvansh Prasad Singh, it is 3.30 p.m. now. We have to go on to the Private Members' Business. You can continue next time. आज साढ़े तीन बजे प्राइवेट मैम्बर बिल है इसलिए आप बाद में बोलिये।

डा. रघुवंश प्रसाद सिंह : ठीक है।

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