

## SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS)

### REPEAL BILL, 2001

Title: Consideration and passing of the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001 moved by Shri Jaswant Singh. (Bill passed as amended)

THE MINISTER OF FINANCE (SHRI JASWANT SINGH): I beg to move:

"That the Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985, be taken into consideration."

The Sick Industrial Companies (Special Provisions) Act, (SICA) 1985 was enacted to tackle the problem of Industrial sickness. The Act has not been effective in checking the problems because it suffers from several deficiencies. And, it is in view of the problems observed in the BIFR mechanism, Sick Industrial Companies (Special Provisions) Bill, 2001 for the repeal of SICA, 1985 and the abolition of BIFR / Appellate Authority for Industrial and Financial Reconstruction (AAIFR) was introduced in this House on 30<sup>th</sup> August, 2001.

Simultaneously, the Companies (Amendment) Bill, 2001 was introduced in this House to provide an alternative mechanism in lieu of BIFR/AAIFR with the main objective of facilitating and expediting revival/rehabilitation of sick companies and adequate protection of workers' interests, also where necessary, winding up of companies. This Bill was passed in this House in the Winter Session, 2002 to provide for setting up of a National Company Law Tribunal. The powers and jurisdiction presently being exercised by various bodies viz. Company Law Board, BIFR, AAIFR under SICA and powers of High Courts in relation to winding up of companies are proposed to be consolidated and entrusted to the Tribunal with a view to avoiding multiplicity of fora to decide the matters regarding revival/rehabilitation/mergers/amalgamation or winding up of companies.

The Bill was referred to the Standing Committee on Finance for examination. The Committee's report to Parliament submitted on 19<sup>th</sup> December, 2002, reflected a broad consensus that BIFR set up under SICA, has, to a large extent, failed to achieve its objective because of its inherent deficiencies. The Standing Committee on Finance recommended that SICA may be repealed and also approved the SICA Repeal Bill, 2001, which is what is here presently. The Committee, however, observed that the issue of pending cases, which shall abate on the repeal of SICA, had not been addressed in this Bill and recommended that Government should bring suitable amendments in the Bill to deal with such cases.

After considering the Standing Committee's report, amendments in the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001 are now proposed amongst others to provide for: registration of abated cases by NCLT and removal of the limitations as to time; for saving the rehabilitation schemes already approved by BIFR/AAIFR to be monitored by NCLT; and for waiver of fee in respect of abated cases when they get registered afresh with NCLT.

Sir, I commend that Sick Industrial Companies (Special Provisions) Repeal Bill be taken up for consideration and be passed.

MR. DEPUTY-SPEAKER: Hon. Members, four hours have been allotted for this Bill.

SHRI K. YERRANNAIDU (SRIKAKULAM): Sir, this is a very small Bill. I do not think we need four hours for this.

MR. DEPUTY-SPEAKER: The BAC has allotted this time. If we can do it earlier, it is better.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985, be taken into consideration."

SHRI A.C. JOS (TRICHUR): Sir, the hon. Minister, while moving this Bill, mentioned orally that the proposed National Company Law Tribunal will take care of the abated cases. I still wonder why the Minister has given an oral assurance to this House and that too very vaguely. As the hon. Minister himself suggested, this Bill came in 2002 and was referred to the Standing Committee. The Standing Committee is an extension of this House itself and the Standing Committee consists of representatives from all political parties. Whatever one might say, the Standing Committee system in our Parliament is functioning very satisfactorily and we can feel proud in claiming that.

The Standing Committee on Finance looked into this very elaborately and made its recommendations. I am reading one of the recommendations. It says:

"The Committee are deeply concerned to note that the issue of pending cases with BIFR/AIFR which shall abate on repeal of SICA has not been addressed in the above mentioned Bill. They find that the transfers through provisions are conspicuous by their absence in the proposed NCLT set up. This, the Committee feel, will cause great hardship to the sick companies whose cases are pending with BIFR/AIFR and they are of the opinion that a lot of time will be wasted in registering the said abated cases afresh with NCLT. Hence they recommend that Government should bring a suitable amendment in the present Bill itself to deal with the abated cases."

Sir, I do not know whether the hon. Minister has read this recommendation. There are only three recommendations and the second and the most important recommendation is this. This House will be astonished to know the details of the pending cases before BIFR/AIFR.

The number of draft schemes circulated was 77; cases in which winding up notices were issued are 117; 1151 cases are under enquiry; schemes filed and re-opened are 64; pending cases recommended by BIFR/AIFR was 44 and the number of cases on which stay order from courts was obtained were 45. In all, there are 1498 cases that are pending before the AIFR and BIFR. This Bill has to be now passed by this august House. Then it has to be passed by the Rajya Sabha and then it has to be sent to the hon. President for his assent and then only it will become an Act. It has been said here that NCLT is being proposed to be set up. This House has to take note of the fact that NCLT has not yet been constituted. I do not know whether the provisions, as contained, in the Company (Amendment) Bill, as passed by this House, have been enunciated properly or not. It will take its own time, at least one year. I am not pessimistic. It would take at least six months. The Report of the Standing Committee must have reached the Government in January this year. It is because the Report of the Committee was submitted in December, 2002. Almost one year has elapsed since then. This amendment Bill should have contained a section by which these 1498 pending cases could have been taken care of by the NCLT. I do not wish to attribute any motive. But the thing is that the Finance Department or the Law Department has not taken the recommendations of the Committee seriously. This is not a casual reference. About 1498 cases of companies are pending there. I am more worried about the workers who had been working in these companies.

Sir, I agree with the hon. Minister that SICA has been misused very much. One industry is either declared sick or made sick and referred to BIFR and then under section 22 of the Act, they do not have to pay any of the statutory dues like the Provident Fund, ESI etc., to their employees and also they do not have to pay their debtors. It was almost like a fashion to declare the companies sick as early as possible and the promoters easily escaped from it. I agree that because of erosion of quasi-judicial authority of the BIFR and intervention by the judicial authorities, the number of pending cases has increased over the years.

But at the same time the hon. Minister must take into consideration one aspect. The Act came into existence in the year 1985. Till date the BIFR never had its full share of 14 members as was stipulated in the Act. Leave alone the previous Governments, even the present Government after having governed this country for more than five years have not appointed the full quota of 14 members in the BIFR. Never in the history of BIFR, the full quota of 14 members was appointed. We expected that with the coming of the BIFR into existence, cases would be disposed of within a year but cases in BIFR had gone on for years. My main grievance is that the Minister should have made adequate provisions in this repeal Bill, instead of allowing cases to get abated. This aspect should have been taken care of in the Bill itself so that the moment this Bill is passed, the moment NCLT comes into existence, these cases could have automatically got referred to that.

Instead of that, the hon. Minister now assures the House that a new registration has to be done. Money may not be there. Many other things have taken place. Even then, it will take at least one year to make the NCLT effective and take care of these cases. My friend, Shri Muniappa just now mentioned to me that BGML of Karnataka has not given two years salary to the workers. So, the case of Shri Muniappa is that two years salary has not been given and VRS has been implemented. But you have not paid the money and they cannot go out. The High Court has passed the order and you have not complied or obeyed it. So, it has not been implemented. Fifty people of that company have died. It is one of the old gold mines which we have in India.

Now, what is going to be the situation? One year or whatever time necessary will be taken for the formulation of the proposed NCLT and then, how many months will it take to transfer all the cases? During this period, the workers are deprived even of their daily bread. The same is the case with Dunlop Company. At a particular point of time,

Dunlop Company was a very lucrative and prosperous Company. It went sick. I do not want to say that it was made sick. But the result is we are vitally affected by that. The rubber traders of Kerala who have supplied rubber have to wait for their money. They are not getting it. Now, the case of Dunlop is in AAIFR. As the hon. Minister knows, AAIFR has no Members at all. The AAIFR has died its natural death few months back. We are not going to revive it. Because of this Act, again it is going to be abated and it has to be registered. So, my submission to the hon. Minister is, before passing it, a clause has to be brought into this Bill itself so that *suo motu* or automatically those pending cases will get transferred as it is. I urge upon the hon. Minister to take immediate steps for the formulation of NCLT and speed up the cases.

The hon. Minister also said that NCLT has got the powers of the Company Law Board, the powers of the Sick Industries Act and also the powers of the High Court judge who deals with the company. I agree that three things are joining there. There can be some good things which may happen about it. But the thing is, it is going to get delayed because even now, there are so many cases which the Company Law Board has to deal with. There are so many cases in the High Court which, according to it, will be transferred to the Company Law Board along with these cases. As it is, 1498 cases are there. So, how much time will it take to dispose of the cases? My request to the hon. Minister is, when the proposed NCLT would be formed, it should have the safeguard and the time limit by which these cases can be disposed of. As I mentioned to you about Dunlop Company, crores of rupees are to be given to the rubber traders and debtors. I do not mind about debtors. But what about the rubber traders? It is because once it goes to the BIFR, the liquidation process is stopped.

So, liquidation process alone will help the workers to get the money. Even before the case goes to BIFR, workers will be deprived of salary. Once it goes to the BIFR, workers cannot even claim salary. Again they have to wait for liquidation process. I do not know what provision can be made in the Law Board by which workers are paid their salary. As per the old system of law, the Government debts and bank debts get the priority. Workers get only the second preference in getting their salaries and other benefits.

My submission is that a provision should be made in this Act that workers have to be paid their salaries at the first instance itself. When the case goes before the BIFR, it first gives notices. Then it goes through all sorts of rigmarole and all kinds of circuitous ways of doing things like legal proceedings etc. Then they appoint some agency to look into it.

My submission to the hon. Minister is that when an industry becomes sick, when the law applies to that company, and when it goes before the National Company Law Tribunal, the management itself should bring in a scheme of revival. Now, it is not there. Their only responsibility is to make a company sick. Then it automatically, as per the present Act, before repealing, goes to the BIFR. Then, it is the job of the BIFR to find out an agency which would bring in a revival package. They have to submit the revival package, bankers should agree to it, all the debtors or creditors should also agree to it, etc. Then the management has nothing to do. I do not want to go into all those details because of the paucity of time. Five thousand and odd private companies have gone before BIFR. We have to make a study of these companies. They all have become NPAs. These people get a lot of money from the banks either with the knowledge and the connivance of the managers or due to their innocence. Money is siphoned off in many ways and finally the company is made sick.

There should be a distinction between private sector companies and public sector companies. In the case of private sector companies, the management should be liable for making it a sick company. Now, once the company becomes sick, they are not answerable for anything. It is the Company Law Board that has to look into that. They will bring a scheme and the scheme is that for creditor this much money is written off, workers may forego six months' or one year salary, electricity charges are to be paid, etc. That situation has to go. Managements of private sector companies should be made answerable to the Tribunal as to how it happened like that, who siphoned off the money, what is the reason for that, etc.

Then, I come to the public sector. That is in the most pitiable situation. In the case of public sector, the Government itself can take a decision. I do not want to go into the controversy of Ministers interfering in the functioning of public sector undertakings, like asking money or other favours. Everybody is silent about it.

I do not know whether it has happened or not, but the names of some Ministers also came up in the newspapers. But one thing is definite....(*Interruptions*)

SHRI BHARTRUHARI MAHTAB (CUTTACK): Later on, an apology was also printed by the newspapers.

SHRI A.C. JOS : Yes, an apology was also printed by the newspapers. I am not going into it. That is all politics. But one thing is definite. Due to political intervention, which has become the order of the day, two things happen. One, the managers are not taking any action and, two, sufficient money is not given to the public sector industries. I very seriously accuse this Government of killing all the public sector industries, somehow or the other.

The most important thing of globalisation is competition. For competition, it is the decision that is most important. What is the decision that is to be taken is most important. What happens is that a Joint Secretary will put a spoke in its wheel. No Managing Director, however strong, influential and efficient he may be, can take any decision because it has to come to Delhi. For everything, the Central Government has to vet it, a Joint Secretary has to vet it. I do not say that the Ministers are responsible.

Take the example of my State of Kerala. The FACT is the mother industry of Kerala functioning from 1946. Even before our Independence, it was started. It was functioning very well till three years ago. It was making a lot of profits. Now it incurs loss. Then, on 25<sup>th</sup> or 26<sup>th</sup>, a meeting has been convened to decide whether it should be referred to the BIFR by reporting the financial situation of the company. What is the reason? The FACT has requested for Rs.360 crore from the Central Government. The Central Government says that some concessions are to be given by the State Government regarding electricity, sales tax, etc. The State Government says that so long as the Central Government retains it in the public sector, it is ready to give the concessions. But no decision is taken. The State Government is ready to do it.

A VRS was formulated by the company. It is before the Government. Money has to be given by the Government because it is the Government's child. But no decision has been taken so far. In a business world, whether it is public sector or private sector, if you have to compete in the world, you have to take decisions quickly and pass on them to the concerned. None of the public sector industries in this country can take a decision independently. I do not want to go into so many details that are available. So, my plea to the Government is that first of all the Government should allow the public sector industries to function. I know Shri Arun Shourie has categorised the companies. According to that, certain companies cannot be revived; certain companies can be revived and certain companies are running well. Companies which can be revived should be revived immediately by pumping money into them or providing sufficient personnel without loss of time so that they cannot become sick.

The point is that once a company becomes sick, however much you may struggle with it, it will be difficult to revive. It will dance to the tunes of the powers that be. My submission is that the public sector industries and the private sector industries, before going sick, should be segregated and viewed differently. So, as far as possible, the public sector industries should not be made sick. Quick decisions should be taken. They should be made possible to work properly.

Now, I come to the abated cases. If the Government is not coming up with any amendment to this present Bill before this august House to register the pending cases with the National Company Law Tribunal, at least, when the units are transferred, the dues of the workers should be taken care of. I know that in the papers it can be taken care of. My submission is that by some provision, the salaries and allowances of the workers are to be paid by the management or by any agency immediately before going into it.

Sir, this can be paid because it is public money and provident fund and ESI dues may also be paid, but the Government should not deprive workers of their daily bread and butter. The Government can pass this Bill and then say that the company has been referred to the BIFR. But what will happen to workers? When we pass a Bill in this House, the Government and this august House should think about the welfare of workers. Instead of thinking about workers' welfare, we are thinking about the credit and Government dues. So, my submission to the hon. Minister is that in the abated cases and also in future cases, the interests of workers should be safeguarded by making a special provision in the rules of the National Company Law Tribunal or through some other agency.

MR. DEPUTY-SPEAKER: Please conclude now.

SHRI A.C. JOS : I know I am taking time. But I will conclude soon.

MR. DEPUTY-SPEAKER: There is one more speaker from your party who wants to speak on this Bill. So, please conclude soon.

SHRI A.C. JOS : I know you are gazing at me.

MR. DEPUTY-SPEAKER: I am not gazing at you. You can take the entire time allotted to your party, but the other speaker will not be able to speak in this debate.

SHRI A.C. JOS : Sir, four hours have been allotted for this debate. Kindly allow me one minute more.

Sir, there should be some finality with regard to the cases which are dealt with by the National Company Law Tribunal. I know the NCLT has got powers of the High Court and it deals with Company Law. But there can also be an ingenious way of taking it again to the High Court. I do not know whether the President of India has given his assent to that Bill. So, when rules are framed for the functioning of the National Company Law Tribunal, there should be some finality to such cases.

I would submit to the hon. Minister that he need not wait for the proposed NCLT to come into shape and then take these cases before that body. I would request the Minister to take these things into consideration and then bring the Bill before the House.

**श्री रतन लाल कटारिया (अम्बाला) :** उपाध्यक्ष महोदय, मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ। मैं आदरणीय वित्त मंत्री जी को इस बिल को लाने के लिए बधाई देना चाहता हूँ। जब से प्रधान मंत्री श्री अटल बिहारी वाजपेयी जी ने इस देश की बागडोर सम्भाली है, तब से एक के बाद एक पिछले पांच वर्षों में ऐसे क्रांतिकारी कानून बनाए गए हैं, जिनसे देश की अर्थव्यवस्था में क्रांतिकारी परिवर्तन आएंगे।

जो सपना हमारे राष्ट्रपति महोदय अब्दुल कलाम जी ने देखा है, जो सपना अटल बिहारी वाजपेयी जी ने देखा है कि हम 2020 तक भारत को विकसित राष्ट्र बनाएंगे, उस गोल को प्राप्त करने के लिए ऐसे कानून हमारे लिए बहुत ही लाभकारी सिद्ध होंगे। आज हमें इस बात की खुशी है कि जो देश का मिड सर्वे आया, उसमें हमारी जी.डी.पी. सात प्रतिशत बताई गई है, एग्रीकल्चर सेक्टर में आठ प्रतिशत की उपलब्धि बताई गई है, इंडस्ट्री में भी छः प्रतिशत की ग्रोथ बताई गई है और सर्विस सेक्टर में सात प्रतिशत की ग्रोथ बताई गई है। पिछले कई वर्षों से बीआईएफआर और सिका जैसे कानून भी हमारे देश में कार्यरत हैं, जो 1985 में बने थे।

लेकिन जो अपेक्षा थी कि ये कानून रुग्ण उद्योगों को दुबारा स्थापित करने में महत्वपूर्ण भूमिका निभाएंगे और लिक्विडेशन का जो प्रोसेस है उसको भी निर्धारित समय में निपटाने में कामयाब होंगे। लेकिन बड़े दुःख के साथ कहना पड़ता है कि पिछले 17 वर्षों में जो भी मामले इनके सुपुर्द किये गये, उनमें से 90 प्रतिशत मामले 10-15 वर्षों तक लटके रहे। इतने लम्बे प्रोसेस की जब प्रक्रिया अपनाई जाती है इसीलिए कुछ मामले 20-25 वर्षों तक अपने लॉजिकल एंड तक नहीं पहुंच पाएंगे। भारत सरकार चाहती है कि भारत की कंपनियों को अंतर्राष्ट्रीय स्तर की स्पर्धा में शामिल किया जाए और इसे शामिल करने के लिए यह जरूरी है कि हमारी रुग्ण इकाइयां समय रहते ठीक की जाएं या उनको बंद करने की प्रक्रिया इतनी सरल बनाई जाए कि उसमें लम्बा समय न लगे। हम चाहते हैं कि इस बिल को लागू करने क पश्चात इसमें जो डायरेक्टर्स रखे जाएंगे, वे सीए हों, एमीनेंट वकील हों, कंपनी सचिव हों, ताकि मामले शीघ्र निपट सकें। हमारे मजदूरों का 2 हजार करोड़ रुपया ऐसे लम्बित मामलों में फंसा हुआ है जहां इकाइयां बीमार चल रही हैं। हम चाहेंगे कि मामले शीघ्र निपटें जिससे श्रमिक वर्ग के हितों को नुकसान न हो।

31 मार्च 2001 तक हमारे देश के अंदर 2,52,947 ऐसी बीमार इकाइयां या कमजोर इकाइयां देखने को मिली, जिनमें से 2,49,630 इकाइयां एसएसआई सेक्टर की हैं तथा नॉन एसएसआई सेक्टर में 3,317 इकाइयां हैं। इन इकाइयों में बैंकों का भी करीब 23,656 करोड़ रुपया फंसा हुआ है। इसलिए जो बीआईएफआर है उसको आज ब्यूरो ऑफ इंडस्ट्रियल फ्यूनरल राइट्स के रूप में जाना जाता है। आज इसकी आवश्यकता नहीं रह गयी है। इसलिए इसके बारे में एक नया कानून लाया जाए।

मान्यवर, आज भारत के अंदर इतनी योग्यता है कि जापान के अंदर जो लॉग-टर्म-क्रेडिट बैंक रुग्ण अवस्था में चल रहा था भारत के लोगों ने वहां जाकर उस बैंक की अवस्था को सुधारा। आज वह बैंक टॉप बैंकों की श्रेणी में चला गया है। जब हम दुनिया में अपनी योग्यता को दिखा सकते हैं तो भारत में भी अपनी योग्यता को दिखाकर अपनी समस्याओं को दूर कर सकते हैं। मुझे खुशी है कि हमारे देश की आईटी इंडस्ट्री ने 45 हजार करोड़ रुपये से ज्यादा का एक वर्ष में निर्यात किया है। इसी तरह से मारुति उद्योग है, कार बनाने वाली इंडिका कंपनी है, मोसर-बीयर जैसी कंपनियां विश्व में तीसरे नम्बर पर चली गयी हैं।

### **15.00 hrs.**

टंडन इलैक्ट्रॉनिक्स उद्योग जिस प्रकार से हमारे देश के लिए एक गौरव का विधा बना हुआ है, हम चाहते हैं कि इस बिल के लागू होने से हमारे देश में जो ईकाइयां हैं, उनमें फिर से जान आएगी और देश के निर्माण में वे उद्योग सहायक सिद्ध होंगे। भारत सरकार ने एसएसआई के विकास के लिए मंत्रालय में अलग से विभाग बनाया है, उससे लगता है कि हमारे देश में जो रुग्ण उद्योग चल रहे हैं, उनको ठीक करने में मंत्रालय साधन जुटा पाएगा। मैं माननीय मंत्री जी से पूछना चाहता हूँ कि हमारे देश में ईकाइयां रुग्ण क्यों हो जाती है? इस दिशा में मैं अपने निर्वाचन क्षेत्र लोकसभा के जगादरी क्षेत्र के बर्तन उद्योग की ओर ध्यान दिलाना चाहता हूँ। जगादरी के कॉपर के वर्तन विश्व में प्रसिद्ध हैं, लेकिन इस उद्योग पर 16 प्रतिशत एक्साइज ड्युटी है, जबकि दूसरी तरफ एल्युमिनियम के एसएसआई के जो उद्योग हैं, उन पर एक प्रतिशत एक्साइज ड्युटी लगाकर उनको राहत दी गई है। इसी तरह से अम्बाला में एक साइंटिफिक उद्योग, लैम्प-ब्लोन-लैबोरेट्री-ग्लासवेयर है, यह उद्योग भी भारत का माना हुआ उद्योग है। इस उद्योग का सामान भारत की रिसर्च-एंड-डेवलपमेंट की प्रयोगशालाओं में प्रयोग किया जाता है। मुंह से फूक मारकर यह शीशे की आइटम तैयार की जाती है, लेकिन इस आइटम पर एक्साइज ड्युटी काफी है। मेरा मंत्री महोदय से निवेदन है कि ऐसी चीजों के ऊपर अगर मंत्री जी राहत प्रदान करेंगे, तो एसएसआई की ये ईकाइयां रुग्ण अवस्था में नहीं आयेंगी और देश में उत्पादन को बढ़ाने में सहायक होंगी।

अंत में, मैं इस विधेयक का समर्थन करता हूँ और आपको धन्यवाद देता हूँ कि आपने मुझे बोलने के लिए समय दिया।

**SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL):** Sir, this is a repeal statute, repealing something that was in existence long before. Now we all know that the Sick Industrial Companies (Special Provisions) Act was passed in 1985 with a definite purpose. The purpose was to restructure the sick industries. That was the main purpose.

Even if we go through the discussion when SICA was passed in this House, it was suggested from all sides about the deficiency in passing such a legislation. One thing is about the definition of 'sickness'. The Government did not take into consideration the proposals that were brought forward by the Opposition in giving a strict definition with regard to sickness. Unfortunately, the Government took the decision in a hurry without giving a definite understanding about the sickness that was growing in almost all the public sector undertakings. A restrictive definition was given. When SICA was passed, even at the outset, there were apprehensions that the Bill would not be effective. It will not save the sick industries as such. But the Government was not prepared to hear those arguments. They were not prepared to hear the arguments advanced from the Opposition sides for saving the sick industries. The Government was adamant that they have given a very restrictive definition. Now they admit that the definition was restrictive. The Government was helpless in salvaging the sick industries.

Now, they have come with a statement, let me say, a confession statement as we do in criminal cases. The Central Government has come before this House with a confession statement. What are the confessions? One is about restrictive definition of sickness and related cognisance thereof. All these things were not new. They were expected. There was an inordinate delay in taking cognisance of the sickness. In spite of the repeated requests from the public sector undertakings, the Government gave a deaf ear to all these developments which are taking

place in the sick industry or it was sleeping along. They did not take any action.

SHRI JASWANT SINGH: It is a very good point.

SHRI VARKALA RADHAKRISHNAN : They were silent and the most important thing is that the BIFR was constituted 15 years ago and the Bench was never fully constituted, never in the life. Never the BIFR had a case with a full Bench strength. It will always be left vacant. No decision could be taken when cases are coming before the BIFR because of lack of strength. Who is responsible? Is it the workers? I do not say that the workers are not liable. Is the House liable or not? It was the Government's bounden duty to constitute Benches to effectively deal with the cases.

When a case is referred to BIFR, it will last there for long. For the last 15 years, still cases are pending without a decision. As was pointed out by Shri Jos, there are about 1498 cases pending before these two tribunals which are constituted under a special Statute. When it is the case with special Statute, what will happen to the ordinary Statute? Special provisions were enunciated in this Statute. Even the name is given as Sick Industrial Companies (Special Provision) Act. So, these are special provisions in the Act. Everybody knew that it is a special provision but the special provision was dealt with in a casual way as in any other case where in-built instructions were implemented. The net result is that there is no hearing of the case before BIFR.

Sir, I am sorry to say, can we find out in any industrial nation in the whole world such a lamentable situation as is available in India?

SHRI JASWANT SINGH: That is why the amendment is there.

SHRI VARKALA RADHAKRISHNAN : I am sorry to say that. They could have done it earlier. I am not finding fault with him, where politicians are also equally liable. I am not finding any fault with the hon. Finance Minister. He is not responsible for this. It is the persons who are governing the country for long before. The persons who are dealing with industries, who are dealing with finance. They are responsible for the catastrophe or for this lamentable situation which has now developed.

So, the BIFR or the AAIFR is the most important thing. But never an attempt was made to constitute it and no case was dealt with it. Now, they say that the corporate sector failed. It was done with a view to save the corporate sector. But now, they want to change the whole edifice into the private sector. All these things have been thrown away. In the case of BIFR, nothing was done; then about excessive protection to sick industry, under section 22, providing for automatic stay of all proceedings, nothing was done. Everybody knew that the court would interfere. Almost, all the proceedings of the BIFR were stayed. We all know that. If any case or any proceeding pending before the BIFR had gone to the court or for a judicial decision, it would get stayed and that stay would be there for years together. Nobody is interested in vacating the stay.

So, the workers were at a loss. The industry could not proceed. The people who are interested in the industry are all in despair. They were rejected. Now, the question is what to do next. This is a special provision. This is the way in which a special statute was implemented in a democratic State. We are bound by the decision of the House to implement a special provision to save the corporate sector. For saving the corporate sector from ruin, this was a special statute enacted by the House with specific provisions, establishment of Tribunal for deciding cases. Nothing was done. There was no revival scheme. Even BIFR had given a revival scheme that was never implemented. Nobody took the initiative of revival structure ordered by BIFR. Nothing was done.

Lastly, even in winding up of sick industries, there was inordinate delay, accruing penal interest. All such things happened on every occasion and the Government was very very sleepy. They did not take any action. Now, they have come with this law for repealing the entire proceedings. The sick industry, as a whole, is to be repealed. When we are discussing the Repeal Bill, what is the situation? Even it is still there. It was reported in the Press that the private sector is allowed even in their service. Indian Airlines and Air India are being put to private sector and private airlines are allowed to operate foreign service and the entire Air India and Indian Airlines will be running at a loss. Even without the risk involved about the national security, nobody is worried about it and a Committee Report is before the Civil Aviation Minister. He has taken some decisions which have appeared in the Press and there is a very strong criticism with regard to the way these have been implemented.

Then, there is another thing which we all know that when this House was discussing about a resolution with regard to the privatisation of petroleum industries, there were different opinions. We all knew that the nationalisation of petroleum industries was by a statute of this House. A statute was passed by this House. Why? It was because two foreign companies were operating in India at that time. So, to take over the two foreign companies, the Parliament will have to pass a law and we had passed it. In utter disregard of the existing statutory provisions, the Disinvestment Minister had the audacity to proceed with the privatisation of petroleum industries. But, the Supreme Court interfered and gave a direction not to proceed with the privatisation.

In my State, In Kerala also we have a bitter experience. FACT is the oldest industry in Kerala which was found

when the King was ruling the country, when Travancore was a kingly State. This industry was established in those old days and it was functioning properly with a profit. But, now, due to reasons beyond their control, the FACT has gone into loss. Why? It is because the High Court of Kerala has taken a decision to transfer the plan from Cochin to some other place by investing some Rs.60 crore or more. It was because of the Court's judgement, the Government did not come to their rescue. The Central Government did not help them. The net result was that FACT ran into loss. Now, they have taken a decision to privatise not because of any workers' strike or not due to lack of work among the workers, nothing of that sort, but it was due to reasons beyond the control of the workers.

It was due to a judicial decision that the biggest industry in Kerala is getting privatised, leading to unemployment of thousands of workers and they are now thrown out of employment. This is the situation that has developed.

We all know that in this sick industry, nothing has been done, the Government did not interfere and the Government did not come to the rescue of the industry. That is the position.

KELTRON, a flourishing industry, is now running in loss and the Government is proposing to privatise it. All these happened because there was the bureaucratic delay, inordinate delay in implementing the provisions of the Sick Industrial Companies Act. At last, the Government has come with a proposal to repeal the Act and that also will land in trouble because the consequential provisions are not properly dealt with in the Act. There are questions of gratuity and provident fund. These things have not been properly dealt with in the Repeal Bill. It only says that the Act will be repealed but the consequential provisions are not dealt with. I think, the Government will have to come before the House again with a new statute to legalise the actions that have been taken under the Repeal Act. So, I advise the Government to take abundant caution in dealing with those cases of the workers' dues which are still pending before BIFR and AIFR, and all these will have to be dealt with. There is no proper provision for that. The only provision is that the Government is having a right to make rules and as per rules, things will be done but that is not sufficient. There must be a specific provision in this regard. ...*(Interruptions)*

MR. DEPUTY-SPEAKER: Please now conclude.

SHRI VARKALA RADHAKRISHNAN : By the repeal of this Act, what will happen to the workers' benefits that have been accrued? It need not be referred back to the respective Government and it must go to the workers who have held it but there is no such provision to safeguard the interest of the workers.

I request the hon. Minister to see that no worker is losing anything because of the repeal of this Act. Even though the Government could not give them employment, at least they should save them ...*(Interruptions)*

MR. DEPUTY-SPEAKER: Shri Varkala Radhakrishnan, will you now conclude your speech?

SHRI VARKALA RADHAKRISHNAN : With these words, I conclude.

DR. B.B. RAMAIAH (ELURU): Mr. Deputy-Speaker, Sir, the hon. Finance Minister has come out with this Sick Industrial Companies (Special Provisions) Repeal Bill, 2001.

The Sick Industrial Companies (Special Provisions) Act was enacted in 1985. The main purpose of this Act is to see that the sickness of the industry is reduced and the industry is revived as early as possible. Subsequently, we saw the Board of Industrial Financial Reconstruction in operation. Earlier also, I mentioned that the functions of BIFR were very slow and the decisions were not taken in time. I am not sure how far the Government is serious about the purpose for which it had been introduced.

Enough judges in the Benches have not been appointed and really it has not helped the revival of the industry. But anyhow, the hon. Finance Minister has taken a serious view now and come out with a new National Company Law Tribunal with more powers to see that it acts much faster than BIFR and others. He also made a provision for 10 special Benches to operate quickly.

There must be a special provision for this. A monthly review as to how much action they have taken must be made. The Government should also see whether we can also spread these things to different parts of the country so that it is accessible to various industries which are spread all over the country and also people will have the access to come to them quickly to see that they operate.

Today, in this country, lakhs of industries have become sick units and lakhs of crores of rupees have been locked up, equipment has become idle and many persons have become unemployed.

I can only tell you that the sickness is there not only in this country but in other countries also. The action as to how to avoid the sickness and how fast we can amalgamate and utilise all these things through merger and amalgamation process is very important.

I feel that the main purpose of this Bill is not only to make the provisions, but also it should have a provision so that the institutions should also have experts. The financial institutions and the banks should also follow up and their representatives in these companies should also take more active interest and guide them properly. Then only should they be able to help reduce this sickness because there is no point in bringing it to the doctor when it becomes absolutely sick. At an early stage, if they are able to make provisions and examine them, they can always give proper guidance. Unfortunately, that is not going on. That is why, the hon. Finance Minister should look into this aspect and see that all the financial institutions and banks have experts in various industries in which they are advancing the money. They should also see that money is advanced at the right time and proper guidance is given to them. The guidance of the Government is also required at every stage. The process of liberalisation, anti-dumping and all these things are there on which they have to act. They require proper assistance so that they should be able to help these industries before they become sick.

Earlier we have suggested a number of measures. He should be able to take those things into consideration. The hon. Finance Minister also said that this provision would be able to take care of two important items. The Tribunals will have the right to take action quickly. Also, they have more powers. So, this will reduce the entire process which is presently taking several years. The time taken for winding up the company will be reduced and they should be able to act quickly. The second thing is that stripping of assets of sick companies will be avoided. Since individual affidavits will be filed with the National Company Law Tribunal which will have powers of contempt of Court, there will be an in-built seriousness. The more important thing is that the Fund will be used for interim payment of the dues of workmen of the company which has been declared sick or is under liquidation. It will be used for protection of the assets of sick companies and for revival and rehabilitation of sick companies and industrial undertakings of various categories. So, they should be able to protect those things, but this is not done in the case of BIFR.

I am quite happy that these provisions are made and I hope they will really be serious on these things. They should try to work out the maximum. But I think the term sickness does not include certain small-scale industries and Public Sector Undertakings.

There is also another special assistance Fund, what is called, Rehabilitation and Revival Fund, which, I hope, will be able to help these institutions at the appropriate time so that they should be able to take the action immediately. In any case, I feel that there should be some continuous monitoring both by the financiers, lenders and by the Ministry of Finance. Or, somebody should be able to make a proper monthly or quarterly review and make sure that progress is made.

Then, the Benches should be distributed in different parts of the country. It should not concentrate only in Delhi or in one single place so that it should be accessible to all the people. Then only, it would be easy for them to operate and take all these things into consideration.

There is another thing which Shri Jos mentioned. Before it comes into operation, what will be the action of the BIFR? Is this going to be wound up immediately? Or, will there be some lapse of time? What is the method of operation? Will the existing cases before the BIFR be completed before they are taken into the new system of National Company Law Tribunal? How should this be operated? They should make all the provisions before the Bill is passed. I hope this is what they have to take into consideration. At the time of securitisation in the case of NPA of the banks, we expected that there would be a lot of immediate assistance. Unfortunately, the banks and the financial companies, which have come into operation, do not know how to operate. So, there should be some precaution and caution that they should take. I hope the Finance Minister should take these things into consideration to see that they reduce the sickness. Also, they should take immediate action for amalgamation and rehabilitation. They should give more powers for the banks and the financial institutions to help them operate.

SHRI C. KUPPUSAMI (MADRAS NORTH): Hon. Deputy-Speaker, Sir, I thank you very much for giving me an opportunity to speak on the Sick Industrial Companies (Special Provisions) Repeal Bill introduced by the hon. Finance Minister.

Sir, this Bill seeks to replace the existing SICA Bill and abolish the BIFR.

But there is no provision made as to what would happen after dissolution of these two authorities, namely BIFR and AIFR. Perhaps the Government does not want to take care of sick units, I suppose. Of course, they have mentioned their intention in the Statement of Objects and Reasons that they would bring forward another amending Bill in the Companies Act to take care of rehabilitating sick industrial units. I would request the Government and the hon. Minister of Finance to ponder over why more and more industries are becoming sick. It is because of the liberalisation and globalisation policy adopted by the Government of India and not giving protection to the indigenous industry.

In a welfare State, it is the duty of the Government to see that there is a balanced development and all sections of the people get equitable justice, workers are assured of their fair wages and are not exploited and the economy

grows, and that the divide between haves and have-nots is not widened further, rather narrowed down.

The House is well aware that unemployment is growing and a number of industries are getting sick. closed. The workers are not getting their due wages. In Tamil Nadu, there is a classic case of Salem Steel Plant, a unit of SAIL. Because of the wrong management policy, wrong choice of production policy, the SSP which is still now doing very well and doing lot of export orders, is made to suffer. The workers of SSP have done well and because of their commitment and untiring efforts, it was going on profit. However, the Government has decided to sell it off to private people and the workers are now agitating. It was a dream of Kalaingar M. Karunanidhi and it was realised during the tenure of Shrimati Indira Gandhi. I would request the Government to revive this company even at this stage so that the Steel Plant is saved and the interests of workers are protected.

In Tamil Nadu, transport undertakings are giving very good service to the general public; they are also running on profit. But, unfortunately, they are in the process of taking to the path of privatisation by the Tamil Nadu Government. It would be a suicidal attempt on their part, since the general public would be put to a lot of hardships and more than two lakh workmen and their families would be on the street. The general public will be fleeced by the private transport sector, as we have seen in other sectors.

Textile industries and other sick industries also need to be revived. Thousands of textile mills have become sick because of the policy of the Government. Lakhs of workers are rendered jobless. When we declare our country as a welfare state, it is our bounden duty to find out ways and means to revive and rehabilitate the sick units so that the economy grows, all round development takes place and the Government may not be forced to refer sick units to any other authority.

Hence, I request the hon. Minister of Finance to provide enough safeguards to revive the sick units while amending the Companies Act and the rules made thereunder before abolishing BIFR and AIFR.

**डॉ. रघुवंश प्रसाद सिंह (वैशाली) :** उपाध्यक्ष महोदय, जो सिका कानून, बीआईएफआर को समाप्त करने का विधेयक आया है, इससे पहले स्टैंडिंग कमेटी में यह प्रस्ताव गया और इस विधेयक की छानबीन की गई। स्टैंडिंग कमेटी में कभी मतैक्य नहीं हुआ। ग्रुप ऑफ मिनिस्टर्स बना था, उसमें भी लेबर डिपार्टमेंट का कहना था कि उसमें जो कर्मचारी लोग हैं, उन्हें फोकस करना चाहिए। इंडस्ट्री डिपार्टमेंट का अलग कहना था कि रुग्ण उद्योग को पुनः परिभाषित किया जाना चाहिए।

फाइनेंस डिपार्टमेंट का कहना था कि इसे खत्म कर दिया जाना चाहिए। ग्रुप ऑफ मिनिस्टर्स में कोई मतैक्य नहीं था और सरकार ने अपने उद्देश्य हेतु दावा किया कि सिक इण्डस्ट्री की परिभाषा साफ नहीं है, इसलिए गड़बड़ी हुई है। बी.आई.एफ.आर. में बहुत विलम्ब हुआ, देरी हुई, इस वजह से सभी कारणों को देखते हुए लेबर डिपार्टमेंट ने भी कहा कि बी.आई.एफ.आर. का जो सन् 1985 में कानून बना था और उस समय के कानून में अभी तक चार हजार से ज्यादा मामले उनके पास आये और रिहैबिलिटेशन का काम संतोषजनक नहीं हो पाया और बहुत ज्यादा समय उसमें लगा, टालमटोल नीति उसमें अख्तियार की गई, इस कारण जस्टिस बालकृष्ण इराडी कमेटी बहाल हुई। उसने विचारोपरान्त कहा कि सिका कानून को और बी.आई.एफ.आर. को खत्म किया जाये और कम्पनी लॉ को संशोधित करके उसमें एक एन.सी.एल.टी. बनाया जाये, कम्पनी लॉ का ट्रिब्यूनल बनाया जाये। सिका कानून और बी.आई.एफ.आर. के बदले एन.सी.एल.टी. बना दें।

हम लोग तो शुरू से ही कह रहे थे कि यह कानून डिफेक्टिव था। इस पर हुई बहस में काफी लोगों ने सवाल उठाया था कि जब बीमारी का ही पता नहीं होगा, डायग्नोसिस ही नहीं होगा तो उसका इलाज कैसे होगा। उसमें कौन इण्डस्ट्री सिक होगी, उसी की परिभाषा सही नहीं थी तो इस विधेयक को फेल होना ही था। जब तक जानेंगे नहीं कि असल बीमारी क्या है तो उसका इलाज कैसे होगा। कोई भी उद्योग बन्द हो जाता है, घाटे में चलता है और बन्द हो जाता है तो हम लोग मोटे तौर पर मानते हैं कि वह बीमार हो गया, लेकिन पेच लगाकर घाटा होगा तो उद्योग घाटे में जायेगा। कई तरह के पेच लगाकर यह कानून 1985 में बना था, चीनी उद्योग की लॉबी के कारण, उनको मदद पहुंचाने के लिए यह कानून बना था कि उनके मजदूरों को कैसे फंसाया जाये। यह सिका कानून लागू हो गया। इस तरह से मजदूरों के खिलाफ उनको बचाने के लिए यह कानून बना था। उसके बाद चलते-चलते देखा गया कि इससे बहुत लाभ नहीं हुआ तो सारे विचार आने लगे और यह हुआ कि एन.सी.एल.टी. कानून 2001 में बना, यह कानून पास हो गया। 2001 वाला जो कानून था, उस एन.सी.एल.टी. वाले अधिनियम में संशोधन आ गया और वह पास हो गया, लेकिन यह कानून अभी तक कमेटी में ही पड़ा था, अब यहां आया है। कमेटी ने जो विचार दिया था, इस विधेयक को लाने में उसका ध्यान नहीं दिया गया।

हमारा कहना है कि उद्योग के बिना कैसे विकास होगा, क्योंकि उद्योग का जी.डी.पी. में भी कंट्रीब्यूशन होता है। उद्योग के बन्द होने के कई कारण हैं, कुप्रबंधन है, पूंजी का अभाव है, हेरा-फेरी है, उसको बाजार नहीं मिलता, रॉ-मैटीरियल नहीं मिलता, मिस-मैनेजमेंट होता है, इन सभी कारणों से मिलें बन्द होती हैं, उद्योग बन्द होता है। उसके लिए कोई इन्तजाम होना चाहिए ताकि चालू मिल बन्द न हो। मिल बन्द होने से देश को बहुत नुकसान होता है, लेकिन सबसे बड़ा नुकसान तो उसमें काम करने वाले मजदूरों को होता है। मजदूर आन्दोलन करते रहते हैं, लेकिन मालिकों ने कभी कह दिया कि तालाबन्दी हो गई, कभी कह दिया कि ले आफ हो गया और मिल बन्द कर दी। अभी तक सारे कानून पूंजीपतियों के हिसाब से बने हुए हैं। उस हिसाब से हम नहीं जानते कि ये कैसे मान रहे हैं कि सिका कानून और बी.आई.एफ.आर. समाप्त होने के बाद जो एन.सी.एल.टी. अभी बना नहीं है, यह एन.सी.एल.टी. दोनों के खत्म होने के बाद इस गैप को पूरा करेगा।

रुग्ण मिलों को चालू करने में इससे सहायता मिलेगी। पहले वाइडिंग अप और लिक्विडेशन का कानून बना था। मैं एक उदाहरण देना चाहता हूं।  $\hat{\text{A}}\text{€}$  (व्यवधान)

**रेल मंत्री (श्री नीतीश कुमार) :** यह उदाहरण समझ गये हैं।  $\hat{\text{A}}\text{€}$  (व्यवधान)

**डॉ. रघुवंश प्रसाद सिंह :** बिना उदाहरण सुने ये कैसे समझ गये हैं ? हमारे यहां बिहार शुगर कार्पोरेशन के अधीन 15 चीनी मिलें थीं। उनकी हालत बहुत खराब थी क्योंकि उनमें कुप्रबंधन था। वहां 400 रुपये के.जी. चीनी का तैयारी खर्च आता था। इस तरह उनमें 600-700 करोड़ रुपये का घाटा होता चला गया। जब उनमें काम करने वाले कर्मचारियों को वेतन नहीं मिला तब वे कोर्ट में चले गये। कोर्ट ने कहा कि या तो आप मिलें चालू कीजिए या मजदूरों का बकाया पैसा दिया जाये या उसे वाइड अप कीजिए। सरकार को बताया गया कि सबसे आसान काम वाइड अप करना है और बिना शुगर कार्पोरेशन के कानून का पालन किये, बगैर पास कराए उसे हाई कोर्ट में डाल दिया। हाई कोर्ट में जाने के बाद हम अब कानून समझ रहे हैं। वहां जानकार लोग बोलते हैं कि इसमें 10 साल लगेंगे, इसका लिक्विडेट बहाल होगा, आदि न जाने क्या-क्या प्रक्रिया है। खासकर जो जज बैठते हैं। इसी तरह से जो पुरानी मिलें हैं, कम्पनियां हैं, उद्योग हैं, वे सब बंद हो रही हैं। मैं पूछना चाहता हूं कि उनका क्या होगा? वे बी.आई.एफ.आर. में नहीं गयीं, सिका कानून में भी नहीं गयीं। उसके बाद हमारे यहां की 15 चीनी मिलें बंद हैं।

## 15.37 hrs. (Shri Devendra Prasad Yadav in the Chair)

माननीय मंत्री जी ने अपने बजट भाषण में जो घोणा की थी, उसको मैं याद दिलाना चाहता हूँ। उन्होंने यह घोणा की थी कि खाद्य मंत्रालय और वित्त मंत्रालय संयुक्त रूप से चीनी उद्योग की समस्याओं का समाधान करेंगे और चीनी उद्योग के लिए एक व्यापक स्कीम प्रस्तावित करेंगे—उस पर क्या कार्रवाई हुई? चीनी उद्योग की सबसे प्रमुख समस्या यह है कि उत्तर बिहार में चीनी मिलें बंद हो रही हैं। उनमें गन्ना सप्लाई करने वाले किसान त्राहि-त्राहि कर रहे हैं, मजदूर त्राहि-त्राहि कर रहे हैं। आपने जब यह घोणा की तो हमें बहुत आशा जगी कि इससे कुछ न कुछ उपाय जरूर होगा। लेकिन इस घोणा के बारे में अभी तक क्या हुआ, उसकी कोई जानकारी हमारे पास नहीं है। बंद चीनी मिलों के लिए क्या प्रावधान हुआ, खाद्य मंत्रालय और वित्त मंत्रालय दोनों मिलकर कुछ करेंगे या नहीं, इसमें कुछ होने वाला है या नहीं और आपने क्या किया है, आदि ये सब हम जानना चाहते हैं।

बिहार में खेती पर आधारित रहने वाले लोग हैं। वहां एक ही उद्योग है जो चीनी उद्योग है। पहले जमाने में जब देश में नौ लाख टन चीनी पैदा होती थी तब बिहार में तीन लाख टन चीनी पैदा होती थी। वहां 1930-32 की खुली हुई चीनी मिलें हैं जो कि पुरानी होने के कारण जर्जर हो गयी हैं। वे सारी चीनी मिलें घाटे में चलने के कारण बंद हो गई हैं। अब उन मिलों को चलाने के लिए भारत सरकार ही कुछ कर सकती है। आपने जब यह घोणा की तो उससे हम बहुत आशांचित हुए कि इसमें कुछ न कुछ होगा। हमने इस संबंध में आपसे लिखा-पढ़ी भी की थी। हमने आपको 23.7.2003 को एक पत्र भी लिखा था। उसके बाद उसका रिमाइंडर भी दिया था। लेकिन उसका कोई जवाब नहीं आया। पता नहीं वह कागज कहां चला गया। इस बिल की मार्फत चूंकि आप सीका कानून खत्म कर रहे हैं, फिर बी.आई.एफ.आर. खत्म होने जा रहा है, जो बीमार उद्योग हैं या बंद उद्योग हैं, उनका क्या होगा? उनका क्या भविष्य होगा? एन.सी.एल.टी. बना नहीं और कानून पास हो गया। यदि एन.सी.एल.टी. सहज हो तो उससे होना चाहिए। अब बिहार की 15 चीनी मिलों को कैसे चालू किया जाये क्योंकि वहां के गन्ना किसान और कोई दूसरी मांग नहीं करते। वे कहते हैं कि किसी भी हालत में चीनी मिलों को आप चालू कर दीजिए। वहां का मजदूर भी यही मांग करता है कि उन चीनी मिलों को चालू किया जाये। इसलिए हमारा कहना है कि इसका कोई ठोस उपाय आप अपने भाषण में बतायेंगे तो हमें संतोहा होगा। हम वहां जाकर किसान और मजदूरों को बतायेंगे कि मंत्री जी ने ऐसा कहा है। आप जो आश्वासन देंगे या उपाय बतायेंगे, वह सब हम वहां जाकर कहेंगे। हमें तो केवल बोलने की पावर यहां दी गयी है। "लड़ना भर मेरा काम रहा, यह जनता का संग्राम रहा।" हमारा केवल लड़ने का काम है, बोलने का काम है। काम तो सरकार को करना है। यह आपका काम है। आप इसमें देखकर विचार करें कि किस हिसाब से बंद चीनी मिलें चालू हो जायें तथा देश भर में जितने बंद उद्योग हैं, उनका कोई ठोस कार्यक्रम बनना चाहिए ताकि वे बंद न हों। वैसे आप लोग कानून उलटा चला रहे हैं। डिसइन्वेस्टमेंट हुआ तो सेंट्रल पी.एस.यूज को बेच दिया। वह नहीं बिक रहा है, दाम नहीं मिल रहा है तो प्रॉफिट वाली कम्पनियों को बेचने में लगे हुए हैं। यह कौन से कानून से हो रहा है। सन् 2001 में यह आया और अभी तक घुट रहा है, सारा जस का तस पड़ा हुआ है। इसलिए यदि एनसीएलटी का गठन होने से चालू हो जाए तो वह हो जाए खासकर बंद चीनी मिल वाले में आपकी घोणा भी है और बंद को चालू करने वाला कानून भी आप लाए हैं। इसलिए वित्त मंत्री जी कुछ ठोस बात बताएं जिससे जनता को, किसान को राहत मिलेगी।

**SHRI RAMESH CHENNITHALA (MAVELIKARA):** Mr. Chairman, Sir, the industrial sickness is a universal phenomenon. Every country has its own laws to tackle this problem. Sickness is due to various reasons. But one of the most important reasons is mismanagement.

In our country, multiple laws and agencies are existing to solve the problem of industrial sickness. Unfortunately, there is no coordination between these agencies and the multiple laws and the Government is giving the conflicting pills.

The passage of the Securitization Bill and the Companies (Amendment) Bill, 2000 is, no doubt, monumental as it gives a pendency rate, but it also embodies lack of clarity on the basic issues as the Government approaches sickness. Of course, the Finance Minister is here. He has been addressing this problem of sickness through various agencies. It is strictly not coming under his purview, but when we are discussing this repeal Bill, I think, that a serious thought has to be given on this issue also.

The industrial sickness is one of the major reasons for our backwardness. With great ambition, we have passed the Sick Industrial Companies (Special Provisions) Act (SICA) law in 1985 to protect the viable sick units and to revive and rehabilitate the sick units which are viable and also to wind up those sick units which are totally un-viable.

The Board for Industrial and Financial Reconstruction (BIFR) was set up on 12 January 1987 to provide a speedy mechanism for amalgamation, merger and other solutions to revive the units. And the Justice Balakrishna Eradi Commission has rightly pointed out that the BIFR has failed on this issue. It consumed maximum time for resolving or disposing of various un-viable units. Concrete steps were not taken for reviving all these sick units, and speedy action has not been taken by the BIFR. These are the main complaints or the issues before the Government for contemplating, for thinking, and for coming forward with a new legislation. Actually speaking, when we are repealing the SICA, we have to give a serious thought to the industrial sickness also. Will the new agency be able to deliver goods and give proper results?

Even the Standing Committee on Finance had examined this issue. Some Members stated in the dissenting note :

"Strangely enough the SICA has been repealed in the alternative proposal of the Company Law second amendment, even before the Standing Committee on Finance has considered SICA repeal, has expressed its views on this report."

This shows how casually these things are being taken up. The Standing Committee on Finance were yet to express their views, and before that the alternative NLCB was proposed and the Lok Sabha had passed it.

This is very strange. The Government has not given a serious thought as to how the sick units can be revived. In

this respect, I would like to draw the attention of the Finance Minister, who is here, towards the attitude of the banks. Unfortunately, the banks and the financial institutions are not helping the industry. They are not sincerely attending to these problems.

I can give you so many examples, but I do not want to take much of the time of the House. Honest attempts to save the sinking firms by converting deficit into equity and such other measures are not being taken by the banks and the financial institutions. Whenever we argued before the BIFR Bench for a revival package, the banks and the financial institutions are always coming on the way. For example, in the State of Kerala, take the case of ALIND, an aluminium industry, which was making profits. One of its subsidiaries, the Switch Gear Factory in Mannar, which falls in my constituency, is a viable company. It is supplying switches and gears to the Indian Railways. However, in the changed economic atmosphere, this company is finding it very difficult to compete with the multinationals and corporates. When ALIND, as a whole, was referred to the BIFR, we asked the BIFR Bench to separate the Switch Gear Unit, which is a viable unit so that it can be revived. Unfortunately, the banks' consortium and other financial institutions came in the way and they have not allowed any decision to be taken on this. The workers' cooperative society is coming forward to take over this firm. The workers came together, formed a cooperative society and they are ready to take over this firm, but the banks are coming on their way.

As rightly pointed by Shri A.C. Jos, in respect of FACT, the Government of Kerala came forward and said that a cooperative society would be formed and that they were ready to take over FACT. Even then, the banks and other financial institutions are coming in their way and they are not ready to accept any kind of proposal and, as a result, these institutions are becoming more sick. The attitude of the banks and the financial institutions should be changed; viable institutions which can be revived should be helped honestly, which is lacking today.

I urge upon the Finance Minister to take a lenient view on this and see that honest attempts are made so that we can turn the sinking firms into viable units.

A lot of apprehensions were expressed in various quarters about this NCLT. Some quarters are saying that this is an old wine in a new bottle. BIFR was an ambitious agency and people had a lot of faith in it. A lot of exercises were done. All the data is with us, but I do not want to refer to all that data. Since the expected results were not there, we are now thinking about a new agency, that is, NCLT. I would like to refer to one important thing here, that is, the overburden of cases before these Benches. Why was BIFR not functioning effectively? It is not because of any inefficiency; it is because of the overburden of cases. The number of Benches was less and enough infrastructural facilities were not provided to BIFR. The Chairman of the BIFR appeared before the Standing Committee on Finance and explained these constraints, that is, how he functioned, what were the problems which he faced.

We cannot just ignore these aspects. So, when we are forming another agency, we should provide them with more infrastructural facilities and it should not be over-burdened. 10 Benches are not adequate because of the enormous powers and jurisdiction of NCLT, BIFR, AAIFR, Company Law Board, powers of the High Court in relation to the sick companies – all these are coming under the new Agency. That means, this new Agency will be over-burdened. If we are not providing them with more Benches and more infrastructural facilities, after ten years, the Government will again come forward and say that this Agency is not properly functioning and so, we have to replace it. So, I want to caution this Government in this regard.

The question is whether the Government is re-evaluating the whole issue of sickness and rehabilitation from a new angle. One Agency has failed and so, we are coming up with another Agency. This will not help. Total evaluation of the whole issue is needed. The approach of the Government is most important; the approach of the financial institutions is most important; rehabilitation package is most important. Where will we find money? What are the other mechanisms which the Government is having for revival and rehabilitation of these units? These are the most important issues to be addressed.

I will conclude in two minutes. There are certain apprehensions regarding workers' interests – how will the interests of the workers be protected? As rightly pointed out by my colleagues Shri Radhakrishnan and Shri Jos, once these units are referred to BIFR, all the benefits enjoyed by the workers will be taken away. In the new dispensation, the new Agency should protect the interests of the workers.

Secondly, speedy implementation of the decisions and speedy disposal of pending cases should be there. Regarding pending cases, the hon. Minister has clarified the position, but it is vague. It should be clarified properly; clarity should be there as to what will happen to the cases which are now pending before the BIFR. It is not the question of registration fees; it is the question of consumption of time and energy. How will we be compensated? How will we help people to make this as a speedy venture?

Revival of these units within the shortest possible time is the cardinal issue which is to be addressed by the Government. Secondly, unfortunately in this august House, the Government is always coming out with amendments to the original Act, but the rules are framed after many months; and because of this, inordinate delay in

implementing the Act is very evident.

Already these units did not have anything for months; and the workers were left with nothing for many years. If there is going to be inordinate delay in notifying the rules, proper implementation of the Act and the new Agency will get further delayed. It will be highly detrimental to the interests of the workers, to the interests of the units and to the interests of the public at large.

Thank you very much. With these words I conclude.

DR. V. SAROJA (RASIPURAM): Thank you very much for giving me this opportunity to take part in this debate on the Sick Industrial Companies (Special Provisions) Repeal Bill, 2001.

The Bill seeks to repeal the Sick Industrial Companies (Special Provisions) Act, 1985. It also envisages dissolution of the Board for Industrial and Financial Reconstruction and Appellate Authority for Industrial and Financial Reconstruction and all proceedings pending before BIFR and AAIFR prior to their dissolution shall continue.

It is a welcome Bill. BIFR was constituted for the revival of sick industries. So many years have passed to find out the deficiencies of BIFR. If the Government is going to take so much time just to find out the discrepancies within the BIFR, how are we to revive the sick industries? Whenever a Committee or a Commission is formed, we have to take a lesson from its omission or commission. We have to see what all discrepancies were there and how the people have suffered from that. The sad part of the whole thing is, there is no proper monitoring at the implementation level.

Having said this, I would like to tell the hon. Minister that the hon. Chief Minister of Tamil Nadu has written a letter to the hon. Prime Minister for the revival of Hindustan Photo Film, Ooty situated in Tamil Nadu. It is situated in a tribal area. It is the only one in Asia and sixth at the international level in having infrastructure and also the manpower to cater to the needs of the poor, downtrodden and common people of this country. Of the products manufactured by the HPF, 60 per cent are being utilised in the medical field. This includes X-Ray films and whole body-scan films of international standards. These films are being utilised for modern medical treatment. The other area to which the HPF is catering to is the Industrial X-Ray and the third area is the Defence. I would like to ask this august House, through you, Sir, whether the House is aware that but for HPF we would not have got victory in the Kargil war. What is the role played by products manufactured by HPF in the Kargil war? The film supplied by the HPF for the aerial survey conducted at the fag end of the Kargil war was an important factor in our success in Kargil.

Will the hon. Minister constitute an interdepartmental Committee consisting of Members from Health, Industry as also Finance and the Members of Parliament to look into this aspect and come to the House with all its deficiencies? Why HPF, having got all the infrastructure facilities and manpower for all these years, was referred to BIFR, which has put it in cold storage? This has resulted in the tribal people of that area as also the surrounding districts to face a lot of difficulties in earning even their one-day meal.

I would plead, through the House, and urge upon the hon. Minister to look into this aspect. I myself had gone to this factory and had inspected it. I may be allowed to give a copy of my inspection report to the hon. Minister and request him to consider reviving HPF.

#### **16.00 hrs.**

Sir, as regards IDPL, are we having something in our mind? After WTO, how are we going to solve the medical problem and the problems being faced by the pharmaceutical industry? Shall we always look upon the foreign countries when we have the manpower as also the human resources? We have this resource at our disposal in IDPL, Chennai. It is the only subsidiary unit. I have pleaded in this House many times that the IDPL unit, Chennai has to be revived because it is facing the consequences of WTO.

As regards Salem Steel Plant, all of us know that it is showing profit. But till now the Government of India has not come forward to extend the financial support to have more profits and also to sort out the unemployment problem.

Last but not least, the sugar industries, not only in Tamil Nadu but also all over India, are facing a lot of problems. The problems are being faced not only by the workers and industrialists but also by the farming community which depend on sugar industry.

I once again plead that for the benefit of the people of Tamil Nadu and the people of India, the hon. Finance Minister has to take the States into confidence before referring the units to BIFR or before putting them in sickness list. I urge upon the Government of India to take the opinion of the State Government before it is finalised.

SHRI BIKRAM KESHARI DEO (KALAHANDI): Sir, I rise to support the Bill because it is a part of the structural

reforms. In the present economic scenario, the BIFR or the Sick Industrial Companies Act, which was enacted in 1985, virtually became redundant because from 1985 till the present day, thousands of cases are pending before it. The State which has been the most hard-hit by the delay in BIFR proposals is the State of Orissa. Hundreds of proposals have come for revival of industries which were devastated by the cyclone. Till day, they have not been rehabilitated or re-settled. So, this is a part of structural reforms for the growth of our country which is heading for 7.2 per cent GDP growth. Winding up of BIFR and Sick Industrial Companies Act will definitely hasten the process of rehabilitation and revival of sick industries through National Companies Law Tribunal which has already been enacted under the Companies Act. I presume the Tribunal will be formed shortly.

Therefore, I support this Bill. At the same time, I would like to say that this Government has not been sitting idle. They have created Insolvency Fund with 0.10 per cent contribution for the revival of public sector companies. That means 0.10 per cent on turn over of companies would go as contribution to Insolvency Fund which was never thought of before. It is because from 1985, the Congress Governments were in power. They were full of corruption. During that period, the bodies like BIFR had completely become redundant. They were non-functional. The proposals were pending for years.

Sir, as I am being hastened to conclude my speech, I am stopping here. I support the Bill and I thank you for allowing me to speak.

**SHRI PRABODH PANDA (MIDNAPORE):** Sir, I rise to oppose the SICA Repeal Bill. The SICA of 1985 was enacted in the public interest with a view to ensuring timely detection of sick and potentially sick companies and for speedy determination by a Board of experts for the preventive, remedial and other measures which need to be taken up.

We can say today that its purpose has not been fulfilled. If we look at the statistics we would find that more than a thousand of cases are still pending before the BIFR. At the same time, we may say that there are quite a number of flaws in this. Firstly, there is delay in decision-making. Secondly, BIFR has, in fact, become the heaven of the defaulting companies and, thirdly, the BIFR has no teeth to enforce its decisions. These are the problems.

Sir, my point is that in the present scenario of economic globalisation, when Indian companies and industries are faced with the threat of becoming sick, would it be right to wind up the BIFR? Rather, we should provide sufficient teeth to the BIFR so that it becomes viable and more effective. The relationship between the Indian companies and the AIFR and BIFR is very significant today. The healthy companies of earlier years have now fallen into bad ways. They urgently require re-structuring to be able to be competitive and withstand the onslaught of the foreign companies. This is the need of the hour. Winding up of the BIFR is not the need of the hour.

I am of the firm opinion that repealing of SICA, 1985 is not warranted at this moment. All that is necessary is that some changes be made so that the misuse of SICA could be stopped. Merely forming a new Tribunal and giving it powers to rescue corporate bodies and winding up with minor cosmetic changes in the provisions of corporate rescue operation is no solution. This is the most important point. This is nothing but old wine in a new bottle. It would be more complicated. NCLT would be burdened with a workload of enormous magnitude. The process is likely to lose focus on revival and rehabilitation of sick industries. It would only focus on rescuing the corporates.

Sir, I oppose this Bill and would like to request the hon. Minister, through you, not to press for passing this Bill. He should concentrate more and more on ways of revival and rehabilitation of the sick Indian companies.

**श्री श्रीप्रकाश जायसवाल (कानपुर) :** सभापति महोदय, माननीय मंत्री जी ने जो बिल प्रस्तुत किया है, मैं उसके संबंध में तीन-चार बातों की तरफ उनका ध्यान आकर्षित करना चाहता हूँ। उन्हें सबसे पहले यह सोचना होगा कि आखिर, मिलें सिक क्यों होती हैं? जो प्राइवेट ऑर्गेनाइजेशन फ़ैक्ट्रियां चलाती हैं और उत्पादन करती हैं, वे सारी की सारी सफल हो रही हैं।

सरकारी क्षेत्र की सारी यूनिट्स सिक होती चली जा रही हैं। हमारे उत्तर प्रदेश में एन.टी.सी. और बी.आई.सी. की सारी की सारी मिलें सिक होती चली जा रही हैं। ये आज से नहीं, पिछले 10-15 साल से सिक चली आ रही हैं। बी.आई.एफ.आर. में एन.टी.सी. और बी.आई.सी. के केसेज गये हुये 10-12-14 साल हो गये हैं लेकिन बीआईएफआर ने आज तक उन मिलों के भविय के बारे में कोई निर्णय नहीं किया है जबकि आप संशोधन पर संशोधन लाते चले जा रहे हैं। मेरी समझ में इन संशोधनों से यदि सरकार कोई लाभ उठाना चाहेगी तो नहीं उठा सकेगी।

सभापति जी, माननीय मंत्री जी ने जो संशोधन प्रस्तुत किये हैं, उनसे ज्यादा आवश्यकता इस बात की है कि मैं केवल उत्तर प्रदेश की बात नहीं करता बल्कि आप हर स्टेट लैवल पर मीटिंग बुलायें। उत्तर प्रदेश में सरकारी क्षेत्र का जितना बुरा हाल है, उतना किसी राज्य का नहीं होगा। आप उत्तर प्रदेश की सभी मिलों के अधिकारियों और मजदूर नेताओं की दिल्ली में एक मीटिंग बुलायें और उनसे पूछें कि वास्तव में ये मिलें कैसे चलायी जायें। आप संशोधन पर संशोधन करते चले जायेंगे लेकिन पांच साल बाद मिलों की फिर वही स्थिति रहेगी। इसका कारण यह है कि इस सब के लिये किसी अधिकारी पर जवाबदेही तय नहीं होती है।

सभापति महोदय, सरकार ने बीआईएफआर बनाया। यदि उनके जितने अधिकारी और न्यायाधीश हैं, उनसे पूछा जाये कि पिछले 12-13 वॉ में आपने इन मिलों का भविष्य तय क्यों नहीं किया, उसका कोई जवाब उन लोगों के पास नहीं है। जिन अधिकारियों ने 10-15 साल तक मिलें चलाई हैं, अगर उन से पूछा जाये कि आपने मशीनों का आधुनिकीकरण क्यों नहीं किया, उसका कोई जवाब नहीं है। यदि उनसे पूछा जाये कि बाजार के सिद्धांतों के अनुसार उन मिलों को क्यों नहीं चलाये जाने की कोशिश की गयी, उसका कोई जवाब उन लोगों के पास नहीं है। जब अधिकारियों पर जवाबदेही फिक्स नहीं होगी तो कितने ही आप अधिनियम बना लीजिये, मेरी समझ में उसका कोई लाभ सरकार को मिलने वाला नहीं है। इसलिये मेरा मंत्री जी से अनुरोध है कि सरकारी क्षेत्र की जितनी भी पुरानी मिलें हैं, उनके अधिकारियों, मजदूर नेताओं लोकल लीडर्स, जनता प्रतिनिधियों- एम.पी.ज. और एम.एल.ए.ज. - को बुलाकर उनसे पूछा जाये कि मिलें क्यों नहीं चल पाई और किन तरीकों से हम

उन्हें रिवाइव कर सकते हैं, कैसे हो सकता है सरकार के सामने इस तरह की कोई प्रोपोज़ल आये जिसे वह व्यवहार में अपना सकें। इससे मजदूरों को रोजगार मिल सकता है और देश के सरकारी क्षेत्रों में सिक हो रही इंडस्ट्रीज को बूस्ट किया जा सकता है।

इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ।

**SHRI JASWANT SINGH:** Mr. Chairman Sir, I am very grateful to the hon. Members for their valuable contributions that they have made. The interest that they have shown in this debate is indicative of the interest that they have in the industrialisation of the country as also the reasons behind sickness and the various difficulties that we, as a country, face in correcting some of the wrongs that have crept as we have travelled down this path.

The issue was about the repeal. We have been travelling with SICA since 1985.

The repeal itself is in accordance with what the Standing Committee on Finance had recommended. Despite that if hon. Members have shown the interest that they have, I am very grateful to them and I am very grateful for the advice that they have tendered. It has been at two levels. One is understandably and inevitably about State issues because one would utilise such an occasion to advocate parochial or State-interest issues. Thereafter, there are issues dealing directly or specifically with the Sick Industrial Companies (Special Provisions) Repeal Bill.

Let me first deal with the State level issues. For example, all the Members belonging to Kerala have pointed out to the difficulties of Kerala. It is understandable because here is an opportunity for hon. Members to give voice to the difficulties even though the debate may be on some other subject. Hon. Members know how much I personally have addressed myself to the issues of plantation industry of Kerala. So far as the plantation industry of Kerala is concerned, I am able to now assert that the situation is not as difficult as it was earlier. I will continue to do so. There are some other difficulties with the industrial sector of Kerala. I am attending to it along with the Chief Minister of Kerala. It is not possible for me to address each industry cited. I assure you that we will do so.

माननीय रघुवंश बाबू ने चीनी के बारे में हमें बहुत डांटा। अब हम जानते हैं कि चीनी आजकल कड़वी हो गई है, विशेषकर बिहार में। यह सही बात है कि मैंने इस सदन को आश्वस्त किया था कि खाद्य मंत्री के साथ बैठकर चीनी के लिए हम एक वृहद् योजना बनाएंगे। वह मैंने बनाई है। मैं अपने वचन पर दृढ़ रहा हूँ। उसकी घोषणा भी हो चुकी है। उसमें राहत दी गई है। दक्षिण के चीनी राज्यों को अलग तरीके से राहत दी गई है और उत्तर क्षेत्र के राज्यों, उत्तर प्रदेश, बिहार और हरियाणा को अलग तरीके से राहत दी गई है। आपका प्रश्न था कि राहत दी ही नहीं गई है। खाद्य मंत्री तो आपके यहां के हैं। आप तो उनसे परिचित हैं। उनसे पूछ लीजिए। आपको सारी जानकारी मिल जाएगी।

जहां तक बन्द चीनी मिलों को चलाने की बात है, इस संबंध में जो योजना बनाई है, वह भी ठीक है। कुछ चीनी मिलें बिहार में बन्द हैं, कुछ पूर्वी उत्तर प्रदेश में बन्द हैं। इनके संबंध में भी खाद्य मंत्री महोदय से बात की है। जब आप खाद्य मंत्री जी से बात करेंगे, तो आपको इस योजना के बारे में भी जानकारी हो जाएगी।

The hon. Member from Tamil Nadu, who is the leader of the AIADMK, spoke particularly of three specific industries of Tamil Nadu. One is Hindustan Photo Films, the other is Salem Steel and the third was about the IDPL. Another Member also spoke about Salem Steel. These are not directly the responsibility of the Ministry of Finance. You will appreciate that they are part of the various other Ministries. I do recognise and take on board that the hon. Chief Minister of Tamil Nadu had written about the Hindustan Photo Films. It is not necessary for me to go into the antecedents of this Company. But we are endeavouring and we are doing our best to see that these are supported as best as we can under the circumstances. In the case of Salem Steel, we have supported. With quite a difficulty, we have supported.

In similar fashion, hon. Member Shri B.K. Deo spoke of Orissa and sickness in Orissa. I recognise the difficulties and the Government is attending to them.

माननीय सदस्य कानपुर, कानपुर की जो बन्द कपड़ा मिलें हैं, ब्रिटिश इंडिया आदि उनके बारे में पहले भी कई बार इस बारे में जिक्र कर चुके हैं। यह सही है कि वहां जो पहले उद्योग रहे हैं, विशेषकर कपड़े और चमड़े के उनमें काफी गिरावट और तकलीफें आई हैं। उनसे मेरा यही निवेदन है कि इन सब चीजों का सीधे वित्त मंत्रालय से कोई संबंध नहीं है, इस बारे में आप आश्वस्त रहें।

**श्री श्रीप्रकाश जायसवाल :** सभापति जी, मैं यह मानता हूँ कि कानपुर की लगभग एक दर्जन बन्द कपड़ा मिलों को चालू करने में सीधे-सीधे वित्त मंत्रालय की कोई दखलान्दाजी नहीं है, लेकिन मैं माननीय वित्त मंत्री जी के ध्यान में यह बात लाना चाहता हूँ कि जब हम कपड़ा मंत्री जी के पास इस समस्या के समाधान हेतु निवेदन करते हैं कि क्या उनके पास कानपुर की एक दर्जन बन्द कपड़ा मिलों को चालू करने या प्रदेश में अन्य स्थानों पर बन्द मिलों को चालू करने का कोई प्लान है, तो वे कहते हैं कि माननीय वित्त मंत्री जी हमें अनुमति नहीं देते, पैसे नहीं देते, हम उन्हें कैसे चला सकते हैं ?

**श्री जसवन्त सिंह :** सभापति जी, सारी नदियां वित्त मंत्रालय में आती हैं और वहीं से निकलती है, यह वित्त मंत्रालय की बहुत बड़ी समस्या है। इसलिए यदि किसी को दो देना है, तो सबसे सरल और आसान तरीका है कि वित्त मंत्री के मत्थे मढ़ो, मैं इसे स्वीकार करता हूँ। अब केवल एक ही उपाय है कि किसी काम के लिए पैसा देना है, तो पैसा भी भारत सरकार के पास असीमित नहीं है।

**श्री श्रीप्रकाश जायसवाल :** सभापति जी, माननीय मंत्री बहुत सीनियर लीडर हैं। उन्हें बहुत ही तजुर्बा है। मैंने पहले भी आपको सुझाव दिया है कि कम से कम सिक इंडस्ट्रीज के लोगों की, उनके मजदूरों की, उनके लोकल लीडरों की एक मीटिंग बुला लीजिए, कपड़ा मंत्री जी को बुला लीजिए और उनसे पूछ लीजिए कि कैसे इन बन्द कपड़ा मिलों का रिवाइवल किया जा सकता है, इसका क्या तरीका है? यदि आप उनसे कनवेंस हों, तो आप फायनेंस प्रदान करें, न कनवेंस हों, तो आप वैसा बता दें।

**श्री जसवन्त सिंह :** सभापति जी, माननीय सदस्य ने जो सुझाव दिया है, इस पर हम विचार करेंगे, लेकिन मैं यह स्पष्ट करना चाहता हूँ कि जो इस हेतु कदम

उठया जाना है, वह तो कपड़ा मंत्रालय को ही उठाना है।

So far as SICA is concerned, the hon. the initiator of the debate is unfortunately not here. ...(*Interruptions*)

**श्रीमती कान्ति सिंह (बिक्रमगंज) :** सभापति जी, मैं आपके माध्यम से, माननीय मंत्री जी से जानना चाहती हूँ कि बिहार में जो डालमियां नगर फैक्ट्री है, पी.सी.सी.एल. एवं पाइराइट्स की फैक्ट्रियां हैं, वे बन्द की जा रही हैं क्योंकि वे रूग्ण हैं, क्या वे उनके सर्वाइवल के लिए कुछ कर रहे हैं क्योंकि वह पूरा ही नक्सलाइट बैल्ट होता जा रहा है ? ऐसा स्थिति में उस बैल्ट में जितनी भी सीमेंट की और पाइराइट्स की फैक्ट्रियां हैं, वे बन्द होती जा रही हैं। क्या आपने उनके रिवाइवल के लिए कुछ सोचा है ?

**श्री जसवंत सिंह :** जैसा मैंने पहले कहा, माननीय सदस्यों की इस प्रकार की उत्सुकता, किसी एक विशेष चुनाव क्षेत्र की किसी कंपनी के बारे में जानने की उत्सुकता होती है, यह स्वाभाविक है और मैं इसे समझता हूँ, लेकिन हर कंपनी के बारे में सिक इंडस्ट्रियल कंपनीज एक्ट (सीका) में पर हो रहे संशोधन बिल पर हुई बहस पर बोलते हुए मैं कोई सही उत्तर दे पाऊँ, यह संभव नहीं है और मैं इसे उचित नहीं समझता हूँ। मैं उनसे निवेदन करूँगा कि उनकी इस बात को मैं संबंधित मंत्रालय तक पहुंचा दूँगा और निश्चित रूप से उस पर जो कार्रवाई हो सकती है, वह की जाएगी।

The hon. Member Shri A.C. Jos has spoken of FACT. He also said that we have not done anything. Regrettably, he said that we have not done anything. I would like to say that we have accepted the recommendations of the Standing Committee. There are already some amendments in this Bill regarding the registration of abated cases, rehabilitation scheme already approved by the BIFR, the waiver of fees, etc. I will not go into the other details. But very briefly I do wish to say that one of the principal concerns, and understandably again, was about the workers' dues, workers' rights and their interests. Workers' interests have been, I assert this authoritatively, preserved in the NCLT Bill. Section 22 of the SICA was routinely misused for not paying workers' dues. A principal change has taken place. There is no provision in the NCLT now which is similar, which has the same authority of power as Section 22 of the previous SICA. Apart from this, the NCLT now provides for a Rehabilitation Fund which also can be used for paying of the workers' dues. These are some of the measures that have already been incorporated here. I am sure they will get the hon. Members' approval.

The other query related to the transition process. A number of Members, again quite understandably, said that transition must be quick and the Government must not delay this. Let me clarify this position to you. The pending cases with the BIFR are those where 100 per cent net-worth has been eroded. Under NCLT, even those with 50 per cent erosion of net-worth shall be referred to the Tribunal. Therefore, reference shall be automatic. However, and understandably again, the companies' concerned, the Board of Directors will have to furnish necessary particulars in an application along with their rehabilitation scheme.

Otherwise, there is no fee for registration or anything. This kind of simple activity, you will appreciate, will have to be done.

SHRI PRABODH PANDA : That means, they have to apply afresh.

SHRI JASWANT SINGH: This is not applying afresh. The company itself will, therefore, have to wait for that. Now, from 100 per cent network, it is becoming 50 per cent network. So, everybody will be equal. But the Board of Directors of the concerned company will have to make an application. This is the rehabilitation scheme, this is what we wish to do and that is perfectly understandable.

Sir, I said that there are 1,569 cases pending with the BIFR. Let me share the anguish of the hon. Members on this aspect. Some of the cases have been pending since 1985-86 in BIFR. That means, these cases have been pending for over 15 years now. The cases have not been disposed of, for whatever reason it may be, and I accept what the hon. Members have said in this regard like, 'I did not appoint Members and Chairman.' I have not been in this chair for 15 years, but that is a different matter altogether. Therefore, whatever the reasons, if they have not been able to deal with the cases in 15 years, I do appeal to the hon. Members to have some faith on us. Now, these transitional changes have been made only to overcome the problem of delay and it is our expectation that under NCLT, cases would be disposed of, I believe, within a period of a year or so. In any case, let me also share that the NCLT law would be more effective.

Sir, there is one more aspect and it is that unlike the BIFR, which had only one Board, the NCLT would have one Principal Bench and 10 other Benches in various parts of the country. Apart from that, with improvement and time-bound procedures, I believe that decisions would be quicker. These are some of the principal points that the hon. Members have raised.

**श्री श्रीप्रकाश जायसवाल :** क्या उन बैंचों में जजों के एपाइंटमेंट टाइम से हो जाएंगे? (व्यवधान)

**श्री जसवंत सिंह :** आपकी यह बात ठीक है कि जब जज ही नहीं होंगे तो बैंच कैसे बनेंगे, परन्तु जज तो होंगे ही, ऐसा मेरा विश्वास है।

So, with these words, I move that the Bill now meet with the approval of the House.

MR. CHAIRMAN : The question is:

"That the Bill to repeal the Sick Industrial Companies (Special Provisions) Act, 1985, 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 clauses 2 and 3 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill.*

#### **Clause 4 Consequential Provisions**

*Amendment made:*

Page 2,--

*after line 43, insert*

"Provided that a company:--

- i. in respect of which such appeal or reference or inquiry stand abated under this clause may make a reference under PART VIA of the Companies Act, 1956 within one hundred and eighty days from the commencement of this Act in accordance with the provisions of the companies Act, 1956;
- ii. which had become a sick industrial company as defined in clause (46AA) of section 2 of the Companies Act, 1956, before the commencement of the Companies (Second Amendment) Act, 2002 may make a reference under PART VIA of the Companies Act, 1956 within one hundred and eighty days from the commencement of the Companies (Second Amendment) Act, 2002 or within sixty days of final adoption of accounts after such commencement, whichever is earlier.

and reference so made shall be dealt in accordance with the provisions of the Companies Act, 1956:

Provided further that no fee shall be payable for making such reference under PART VIA of the Companies Act, 1956 by a company whose appeal or reference or inquiry stand abated under this clause:

Provided also that any scheme sanctioned under sub-section (4) or any scheme under implementation under sub-section (12) of section 18 of the repealed enactment shall be deemed to be a scheme sanctioned or under implementation under section 424D of the Companies Act, 1956 and shall be dealt with in accordance with the provisions contained in PART VIA of that Act." (3)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

*The motion was adopted.*

*Clause 4, as amended, was added to the Bill.*

**Clause 5 Saving**

*Amendment made:*

**Page 3, line 24,--**

*omit "preparation and" (4)*

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 5, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

**Clause 1 Short Title and Commencement**

*Amendment made:*

Page 1, line 4, -

for "2001"

substitute "2003" (2)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

**Enacting Formula**

*Amendment made:*

Page 1, line 1, -

for "Fifty-Second Year"

substitute "Fifty-fourth Year" (1)

(Shri Jaswant Singh)

MR. CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The long Title was added to the Bill.

SHRI JASWANT SINGH: Sir, I beg to move:

"That the Bill, as amended, be passed."

MR. CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

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