

15.02 hrs.

Title: Consideration and passing of the Legal Services Authorities (Amendment) Bill, 2002 (Bill Passed).

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): Sir, I beg to move* :

"That the Bill further to amend the Legal Services Authorities Act, 1987, be taken into consideration."

Sir, the Legal Services Authority Act was legislated by this hon. House in 1987. One of the principal purposes of this Act was to provide free legal aid to the poor people. The second object of this Act was to create an institutional mechanism of *Lok Adalat* and National Legal Services Authorities across the country.

The experiment of the last 13 years shows that in both areas, the implementation of this Bill has made a considerable headway in terms of legal assistance given in various forms. About 40 per cent litigants have benefited from that.

There is a National Legal Services Authority, which was created at the Central level, and whose patron is the Chief Justice of the Supreme Court. The Committee is headed by a Judge of the Supreme Court. Then, there is a State Legal Services Authority, which is headed by the Chief Justice of the High Court. Then, there is a District-level Legal Services Authority. Now, these Authorities have been organising *Lok Adalats* in order to reduce the arrears and encourage out of court settlements, and the success of these *Lok Adalats* is evident from the fact that almost one crore thirty-six lakh cases have been settled in the last 12 years by the *Lok Adalat* process itself. This has helped us in considerably bringing down the arrears in regard to these cases.

There are several merits of this *Lok Adalat* System, which we have seen

*Moved with the recommendation of the President.

from our experience of the last 12 years or so. There are also some areas where this experiment needs to be strengthened. For instance, one area is that *Lok Adalats* are held only periodically either at the level of a State or a District and then they are held after some time. It has been suggested by those who have been working in this field that in some areas you need this *Lok Adalats* to work on a permanent basis.

The second drawback which has been seen is that *Lok Adalats* under the original Act bring about resolution of disputes only by conciliation, and when conciliation fails, the experiment does not succeed. The other drawback which has been seen is, when it comes to dealing with various public utilities and Government Departments -- normally, various financial concessions are to be made in favour of a citizen, let us say, defective telephone bill or electricity bill -- officers are not prepared to take the responsibility on their own shoulder and make concessions, even though concessions would be due.

Therefore, after a considerable discussion with various sections, the Act is now sought to be strengthened further by adding a chapter VI-A and providing that in all public utilities a permanent *Lok Adalat* mechanism should be in operation. Public utilities are defined under this Act to include various forms of transport, postal and telephone services, electricity companies, municipalities, public conservancy and sanitation, hospitals and insurance companies.

Sir, now we have seen a large number of cases in our courts relating to disputes with these public utilities because every citizen has to deal with them. The proposal is that in each public utility or in smaller places, or for a several cluster of public utilities, a three-Member *Lok Adalat* headed by a retired or a sitting Judicial Officer and two other Members, who are experts in public utilities, be constituted and facilities be given to those categories of persons who instead of going to courts want to avail of this fast track route. They can take their grievances and disputes to them and they would try to bring about, after hearing both the sides, a conciliation and if a conciliation is not possible, then the independent *Lok Adalat* would also make an Award and that Award would be enforceable as a decree of the court itself. So, the power to adjudicate the powers to the *Lok Adalat* itself is given. The advantages of this would be that citizens, instead of spending years, for settlement of small disputes, in courts can use this alternative forum. The merits of an alternative dispute redressal system have been realised by us even in the conciliatory *Lok Adalats* that we have had. This would be a cheaper remedy. It would be a very low cost remedy that would be available and it would also be a quicker remedy. The litigants would not have to wait in queues in the courts for a very long period of time. Therefore, it would be a litigant and citizen-friendly measure and would also help us to bring down the arrears of cases as far as the courts are concerned.

Sir, having said that I would commend this to this House to consider this amendment to the 1987 Act and also approve the same.

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Legal Services Authorities Act, 1987, be taken into consideration."

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Chairman, Sir, as the Statement of Objects and Reasons appended to this Bill states and as the hon. Minister also, while making his opening remarks, has stated that the Legal Services Authority Act of 1987 was enacted to constitute a legal service for providing free and competent service to the weaker sections of the society to organise *Lok Adalats* for expeditious disposal of smaller matters without the authority being bogged down by the rigid procedural road blocks. Gaining from the experience of the working of the *Lok Adalats*, it is a major step that we are taking today to include in that Act a chapter dealing with setting up of permanent *Lok Adalats*.

Sir, I would agree with the hon. Minister that this would enable quicker disposal of matters pertaining to disputes relating to public utility services that have been enumerated here in this Bill. What is particularly welcome about this Bill is, I would say, the willingness on the part of the Government not to really work as an impediment in the path of the ordinary people seeking justice and instead to rather encourage early disposal of such matters. It is because in most of the public utility services mentioned in this Bill, it is generally an official authority, a Governmental authority that, in fact, is the service provider. It has been our experience -- to the chagrin of each one of us, this has been the approach of the officers concerned in all the authorities providing these services -- that whenever a dispute arises, in case of very genuine ones also, between a poor consumer and the mighty edifice of the authority, the poor man has to run from pillar to post for getting his matter settled. On quite a few occasions he is forced to pay the amount of inflated bill before he could really take up his matter. I think that now it would be a matter of the past. One would certainly welcome it.

Much of what we all would have wanted to say on this Bill has been said by the hon. Minister. I would not really like to take much of the time of the august House in referring to the idealism that ought to prevail today in dispute settlement procedure, particularly at a time when the Government is the biggest litigant in the country. The Government not only spends a lot of its own scarce resources in taking a matter of a very petty nature right up to the Supreme Court because no officer at a time would be willing to take the risk and say such and such matter be stopped here. Or at times he would like to, in his own words, teach a lesson to the person who chooses to question his judgement. The net result was that such matters took years and years together for arriving at a final decision thereon. Now that the permanent Lok Adalats are being put in place, I am sure all those delays would be cut down and without really being bothered about, or having had to comply with all the detailed procedures which in fact contribute significantly to the delay in the decision of the cases, one would expect a quick result.

I would only like to refer to some matters. I have not submitted any amendment thereto but I would like to bring those matters to the notice of the hon. Minister. They are not really important but I think those are the questions one could think of when one goes through the Bill. One is the very title of Chapter 6-A which is currently being introduced. It says, 'pre-litigation conciliation'. I think it should have just been 'Permanent Lok Adalats'. Pre-litigation conciliation postulates that after the first stage there has to be a second stage and then the final stage whereas, as the hon. Minister himself said, this is all compacted and put into one. That is, firstly the permanent Lok Adalat tries to bring about an amicable settlement between the parties, failing which it decides the matter. I welcome that step. That is the end of the matter. The title should have been changed.

I do not find a mistake in any Bill which is drafted by Shri Arun Jaitley, but I do not know whether he has really drafted this or not. For instance, this new Section 22B, which is now sought to be incorporated in the law, and subclause (ii) thereof is all repetitive. It says:

"Every permanent Lok Adalat established for an area notified under subsection (1) shall consist of a judge, etc., two other persons having adequate experience in public utility service to be nominated by the Central Government or, as the case may be, the State Government on the recommendation of the Central Authority (that is NALSA) or, as the case may be, the State authority and finally appointed by such authority."

This could have been made very simple. That is another effort which one should make. We should not try to complicate the phraseology of the law but to make it indeed very simple. We can say, 'There are two persons to be nominated on the recommendation of the relevant authority.' That is all. That could have been stated here.

It is good that the jurisdiction of the permanent Lok Adalats is confined to matters which are not compoundable under law and the jurisdictional value of which at the moment does not exceed Rs.10 lakh. This is fine. But, Sir, there is one doubt which comes to my mind. This Section 22C(1) opens with the word 'any party to dispute before the dispute is brought before any court may make an application to the permanent Lok Adalat for the settlement of the dispute. I would like to know from the hon. Minister what would be the position regarding the litigation in such cases. Suppose a matter finally falls and the Permanent Lok Adalat is not able to really decide, would the person

lose on the limitation clause in case the limitation has run out in the meanwhile?

Or will this be not subject to the law of limitation notwithstanding the limitation on the subject?

MR. CHAIRMAN : Shri Pawan Kumar Bansal, there are three more speakers to participate in the debate on this Bill. We have to pass it by 3.30 p.m. also. Please conclude.

SHRI PAWAN KUMAR BANSAL: Sir, I think that I was not really being dilatory on anything. I was not repeating even a single word anywhere. But if you say, I will sit down.

MR. CHAIRMAN: There are still three more speakers. If we have to pass this Bill today by 3.30 pm, speakers will have to be very brief.

SHRI PAWAN KUMAR BANSAL : Sir, we would certainly want to pass this Bill but there are just one or two suggestions only which I would be wanting to make on this matter. I think, this is what we are really held guilty of outside. When certain matters come up before the courts, they say that we did not take any time in passing the Bill.

Sir, I think, we should not be really in any hurry. Certainly, we have to pass the Bill but at least, some time should be given to us to say a few words on the matter.

If you permit me, I would only very briefly like to refer to some other provisions to seek some clarifications from the hon. Minister.

MR. CHAIRMAN: Please try to finish your speech as quickly as possible.

SHRI PAWAN KUMAR BANSAL : Yes, Sir.

There is a new section 22C, sub-section(4) which says:

"When additional statement is made, it shall conduct conciliation proceedings between the two parties to the application in such manner as it thinks appropriate taking into account the circumstances of the dispute."

It is fine. But I would like to know that: is it something going to be entirely different from the Arbitration Act? It is because there are cases where the service providers have a clause in their agreement which the members of the public have to sign without even having to read it. There are clauses of arbitration. Now, will it be exclusive of that? Or will in such cases, the Arbitration Act apply?

Sir, I would personally want that in all these matters it should be simply the provisions of this law that should apply and nothing else should apply because this is the simplest form, which I must accept.

But I could not understand one thing. While constituting the permanent Lok Adalat, why does he want to confine the jurisdiction of such a Lok Adalat to a particular service only? Why should the Lok Adalat not, *ipso facto*, cover all these public utility services? He has provided here that Lok Adalat may be set up for one or two or many services as may be notified in the services. Why should it just not have been that the permanent Lok Adalat set up would deal with all the matters relating to public utility services?

Mr. Chairman, Sir, I see the anxiety on your face. I did not want to take some time on this. But I would only end up by making two small observations.

One is that it is said in sub-section (8) of section 22, which I quote:

"Where the parties fail to reach at an agreement under sub-section (7), the Permanent Lok Adalat shall, if the dispute does not relate to any offence, decide the dispute. "

Now, what about the cases involving road accidents? There is one part of it, which says that it becomes a criminal offence also. What would happen to those cases? Well, I would only want the hon. Minister to clarify this point. I would certainly want that all motor accident cases should be covered by this provision. He should rather give us the undertaking that the Government agencies will not go and appeal in these matters against the decision of the Lok Adalat.

Finally, Sir, I go to Section 22E. I think that it is not really a fine piece of drafting. The word 'decree' has been used at a number of places. They have said that every award shall be 'deemed to be a decree,' then 'as if it were a decree for execution'. Then somewhere, in between, sandwiched between the two, you find that 'the award shall be by a majority.' That should have been number one. Subsequently, other provisions should have followed.

Sir, I really do not have to say much on that. But I think, it could have been happily worded. All said and done, I

support this Bill.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, माननीय मंत्री जी लोक अदालत के लिए जो विधेयक लाए हैं, इसमें सबसे पहले मेरी आपत्ति यह है कि मंत्री जी परिभाषा का मतलब क्या समझते हैं। डेफिनेशन की डेफिनेशन क्या होगी, कि कोई भी अंजान आदमी डेफिनेशन को पढ़ने एवं सुनने से जान जाए कि यह चीज क्या है। इस परिभाषा में जो यह कहा गया है अस्थायी लोक अदालत की धारा 22(ख) की उपधारा (1) के अधीन स्थापित कोई अस्थायी लोक अदालत अभिप्रेत। इससे कोई समझ सकता है कि लोक-अदालत क्या है? एक जन-अदालत नक्सली लोग भी चलाते हैं, बड़े-बड़े फैसले करते हैं और उन्हें अपने आप लागू करते हैं तथा लोगों को फांसी दे देते हैं। जो परिभाषा आम आदमी की समझ में आ जाए, वह परिभाषा इसमें होनी चाहिए। इन्होंने दे दिया है 22(ख), जिसे पढ़ने से लोक-अदालत की परिभाषा के बारे में और कंप्यूजन हो जाता है कि लोक-अदालत क्या है? इसलिए इसमें साफ और सरल परिभाषा होनी चाहिए जिससे आम आदमी पढ़कर जान ले कि लोक अदालत क्या है? अब 22(ख) को देखा जाए तो कंप्यूजन है। आदमी की क्या परिभाषा है और कोई कहे कि जो आदमी जैसा लगे वह परिभाषा है तो क्या यह परिभाषा हुई? इसलिए परिभाषा मूल चीज़ है और उसे सरल और साफ होना चाहिए। लोक-अदालत और परमानेंट लोक अदालत में क्या फर्क है - यह स्पष्ट होना चाहिए, जिसे आपने परिभाषित नहीं किया है। जिस कानून की परिभाषा में ही गड़बड़ हो, वह आगे जाकर लोगों को क्या लाभ देगी। लेकिन माननीय मंत्री जी ने दावा किया है कि 13 साल में 1 करोड़ 36 लाख मामलों का निपटारा हो गया है। "जस्टिस डिलेड, जस्टिस डिनाइड"। लोग चाहते हैं कि जल्दी-जल्दी मामले लोक-अदालतों में जाकर निपटे।

पंचायत की हमारी परिपाटी पुरानी है जिसमें पांच आध्यात्मिक आदमी, अच्छे आदमी बैठते थे वह पंचायत मानी जाती थी और वहां बड़े-बड़े फैसले होते थे। उसी परिपाटी के मुताबिक इन्होंने जज साहब के साथ दो आदमियों को बीच में रखने का फैसला किया है और इसे नये कानून में जोड़ दिया है। कोई भी मामला जो लोक-अदालत में जाएगा और जिसका निपटारा नहीं होगा, उसका मैजोरिटी से फैसला देने का अधिकार भी इसमें दिया है। इससे ऐसा लगता है कि जिन विवादों के फैसले को न्यायालय में जाने में देरी होती थी, उनका भी समाधान हो जाएगा। इसमें यह अच्छी बात लगती है और उसका भी अधिकार इसमें दिया गया है। शुरु में इन्होंने कहा है कि गरीब और अनजान आदमी को उससे न्याय मिलेगा। मेरा कहना यह है कि गरीब आदमी को कोई नहीं पूछता है।

सभापति जी, सुप्रीम-कोर्ट में एक गरीब आदमी का मामला दाखिल हुआ। उस गरीब आदमी ने कहा कि मैं खुद बहस करूंगा क्योंकि मेरे पास वकील को देने के लिए पैसे नहीं हैं। जज साहब ने कह दिया कि अंग्रेजी में बहस करिये, हम हिंदी नहीं समझते। उस गरीब आदमी ने समय मांगा, कोर्ट ने केस खारिज कर दिया। उस केस में 34 आदमियों को जमीन मिली थी। उन्होंने जाली आदमी खड़े करके हाई-कोर्ट से अपने पक्ष में फैसला ले लिया। उस फैसले के खिलाफ सुप्रीम-कोर्ट में मामला आया लेकिन उस गरीब आदमी को वकील रखने की हैसियत नहीं है तो उसको न्याय कैसे मिलेगा। गरीब आदमी को आज भी न्याय नहीं मिल रहा है। जन-अदालतें हों, लोक-अदालतें हों, लेकिन गरीब आदमी और अनजान आदमी हर जगह ठोकरें खा रहा है और उसके साथ अन्याय हो रहा है। सरकार दावा करती है कि गरीब आदमी को, अनजान आदमी को, भूमिहीन को जमीन मिल गयी है, दखल-दर्जा हो गया है। इलाहाबाद कोर्ट का मामला हमारे पास आया, हमने वकील लोगों से संपर्क किया। वकील लोगों ने कहा कि जब सुप्रीम-कोर्ट ने खारिज कर दिया तो सुप्रीम-कोर्ट के ऊपर कौन वकील है और कहां जाएगा और इसके ऊपर कहीं भी रिव्यू या सुनवाई नहीं होती है। इस तरह से हम लोक अदालतों को परमानेंट लोक अदालत बनाने की बात सुन रहे हैं लेकिन गरीबों को न्याय नहीं मिल रहा है। हमारी न्याय की पुरानी परिपाटी है। सब दर्शन में एक दर्शन न्याय का है। गौतम, कपिल और पुराने जितने महापुरुष, ऋषि, मुनि हुए उनके समय से न्याय की परिपाटी थी लेकिन लोगों को न्याय नहीं मिला, खास तौर पर गरीब लोगों को न्याय नहीं मिला।

मंत्री जी ने दावा किया है कि वह इस संशोधन से इसे ज्यादा उपयोगी बना रहे हैं और इससे गरीब आदमी को न्याय मिलेगा, निपटारा करने में कम समय लगेगा। मैं इनकी सफलता की कामना करता हूँ लेकिन मुझे बहुत भारी संदेह है। गरीब आदमी की बहुत सी समस्याएँ हैं। खास तौर से सरकार की तरफ से कोई सुनवाई नहीं होती है। वे पैटिशन देते थक जाते हैं और लाचार होकर न्यायालय जाते हैं। वहां खर्चा और समय लगता है।

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Mr. Chairman Sir, he should allow the Bill to be passed....(Interruptions)

SHRI PAWAN KUMAR BANSAL : Please do not say it like this. He is not coming in the way of the Bill....(Interruptions)

MR. CHAIRMAN : After his speech, we will pass the Bill. My name is also there but I will not speak.

...(Interruptions)

SHRI ANADI SAHU : You may tell him to cut short his speech.â€¦ (Interruptions)

डॉ. रघुवंश प्रसाद सिंह : क्या आप बिना बहस कराए यह बिल पास कराना चाहते हैं? आज आपके पास बहुमत है और उसके माध्यम से इसे पास करा सकते हैं लेकिन यह एक गलत परिपाटी है। क्या आपका हुक्म चलेगा? हम अल्पमत में हैं। विपक्ष में रहते हुए हम बोलेंगे। आप हमारे बोलने के अधिकार को खत्म करना चाहते हैं। आपका यह व्यवहार और तरीका ठीक नहीं है। आप कैसे गरीबों को न्याय देंगे? गरीब आदमी को बोलने की छूट नहीं है। इसे जनोपयोगी और गरीबोन्मुखी बनाने

की जरूरत है क्योंकि न्याय उन्हीं को देने की जरूरत है जो गरीब हैं। जो लोग किसी तरह जोर-जबर्दस्ती करके अपना काम करा लेते हैं, वे समाज में रहते सभी लाभ उठाते हैं लेकिन गरीब आदमी दर-दर भटकता है। इसे व्यावहारिक बनाना चाहिए। ऐसी अदालतें बनानी चाहिए जहां गरीब लोगों को बिना खर्च से न्याय मिले। इसी सुझाव के साथ मैं अपनी बात समाप्त करता हूँ।

MR. CHAIRMAN: Now, the Hon. Minister.

...(Interruptions)

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, we are also a party. We have to speak on this Bill....(Interruptions)

MR. CHAIRMAN: In that case, we will continue with it next week. Still one minute is left for Private Members' Business, I call upon Prof. Rasa Singh Rawat to speak.

प्रो. रासा सिंह रावत (अजमेर) : सभापति महोदय, मैं विधि मंत्री जी द्वारा प्रस्तुत विधिक सेवा प्राधिकरण संशोधन विधेयक 2002 का पुरजोर समर्थन करता हूँ। वास्तव में यह गरीब व्यक्तियों और समाज के कमजोर वर्ग के लोगों को न्याय दिलाने का बड़ा ही सुलभ, सहज, वैकल्पिक समाधान का नव परिवर्तित

स्वरूप है। न्यायालय के बाहर लोगों में सुलह करने की भावना रहती है। हमारे यहां कहा गया है ""Justice delayed is justice denied""। न्याय में अगर देर की जाती है तो मतलब न्याय से इंकार किया जाता है लेकिन यह भी कहा जाता है कि ""Justice delayed is justice buried""। मतलब अगर न्याय में ि वलम्ब किया जाता है तो जस्टिस को दफनाए जाने का प्रयास किया जाता है। मैं समझता हूँ कि न्यायालयों में मुकदमों की संख्या लाखों में रहती है। इसलिए इनका निपटारा करने के लिए लोक अदालत बनाने की बात आई। 1987 में विधिक सेवा प्राधिकरण विधेयक पारित किया गया था।

15.29 hrs. (Dr. Raghuvansh Prasad Singh in the Chair)

जैसा मंत्री जी ने बताया कि इन दस वॉर् में लगभग 40 लाख लोग इनसे लाभान्वित हुए और एक करोड़ 36 लाख केसों का निपटारा किया गया। इससे पता लगता है कि लोक अदालतें कितनी उपयोगी हैं? शहरों और कस्बों में लोक अदालतें लगायी जाती है। यदि ग्रामीण क्षेत्रों में न्याय पंचायतों को ग्राम पंचायतों के साथ पहले की भांति थोड़ा मजबूत किया जाए तो अच्छा होगा। इससे आपसी सुलह के आधार पर गांव में रहने वाले लोगों के मुकदमों का सहज निपटारा हो सकता है।

सभापति महोदय, जिला स्तर पर जो विधिक सेवा प्राधिकरण होते हैं, वे गरीबों के लिये वकील नियुक्त करते हैं। चूंकि वकीलों को कम पैसा दिया जाता है, इसलिये वे इस तरफ ध्यान ही नहीं देते। जब वकीलों को आवाज दी जाती है तो वे आते ही नहीं, प्रस्तुत नहीं होते हैं। परिणामस्वरूप, जिस गरीब को न्याय देने के लिये इन अदालतों को स्थापित किया गया है, वह लक्ष्य पूरा नहीं होता। मैं माननीय मंत्री जी से प्रार्थना करना चाहता हूँ कि इस संदर्भ में जो विधिक सेवा प्राधिकरण राष्ट्रीय, राज्य और जिला स्तर पर कार्य कर रही हैं, उनके द्वारा अच्छा कार्य सम्पन्न हो रहा है लेकिन उन अदालतों में जो वकील जाते हैं, यदि उनके शुल्क में थोड़ी वृद्धि और कर दी जाये तो ज्यादा अच्छा रहेगा।

सभापति महोदय : साढ़े तीन हो गये हैं, इस बिल पर बोलने के लिये एक वक्ता बाकी है, यदि सभा की सहमति हो तो बिल पास होने तक इसका समय बढ़ा दिया जाये।

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, I think you should extend the time and allow one or two Members to speak. We could pass the Bill.

सभापति महोदय : सभा की सहमति है। श्री वरकला राधाकृष्णन जी।

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, at the outset, I may state that I support the Bill. Now, before I go into the details of the Bill, I have to say something.

Sir, Lok Adalat Bill was passed with a particular purpose. The purpose was to do justice to the weaker sections of the people. We all know that justice is very costly in India. It is the costliest, if I may say so. The poor man cannot get justice at his door step. We cannot speak of democracy until and unless the man in the street gets justice at his door-step. Now, for getting a final decision, a man from Kanyakumari will have to come to Delhi to the Supreme Court. It is very costly. The first thing that we will have to do is to decentralise the judicial powers. There is a need

to see that local disputes are decided at the district level; the State-level disputes are decided at the State-level, and only national-level disputes will have to come to the Supreme Court. But, unfortunately, even the civil matters, property disputes, etc., by raising a question of law, the matter comes to the Supreme Court for a final decision. The poor man from a corner of the country find it very difficult to get justice in the Supreme Court because he cannot afford to pay. The Law Minister will tax him lakhs of rupees. How can he come over to Delhi and get justice? Unless and until, there is decentralisation of judicial powers, we cannot claim that democracy has reached the poor man; we cannot boast that justice is at the door-step. So, the ultimate aim is that the poor man gets justice at his door-stop. With this ultimate aim, this Lok Adalat Bill was passed. Where have we reached? It is a time for an overview. That is why, we make amendments.

Now, the Lok Adalat was also a statute with inherent weakness because even local disputes could not be decided by the Lok Adalat. It was more or less only an arbitrary or a conciliatory body in its functioning. So, even in petty disputes, if one party is not agreeable to a decision, there will be no end of the matter. Suppose some dispute is pending before the Munsif Court or before the Magistrate Court, the parties can take the matter to the Lok Adalat. There, they do not come to an agreement after passing some six months or more due to procedural wrangle in the Lok Adalat, like issuance of notices, services or summons; scheduling of witness, summoning of witness, etc. For completing all these processes it may take at least six months for a Lok Adalat before coming to a decision. After taking all these measures if the complainant or the defendant or the aggrieved party does not agree to the decision taken by the Lok Adalat, then the entire process will be reverted back to the court from where it was taken. If it was taken out from the Munsif Court, the case will be referred back to the Munsif Court. If it was taken out from the Magistrate, the case will be referred back to the Magistrate Court for further decision. There, advocates would be engaged, summons would be issued, evidence will be taken and there will be a lengthy process of hearing. The Presiding Officer himself will take a month to deliver the judgement. That will take a major portion of the life of a litigant. Not only that, the aggrieved party can go in appeal up to the Supreme Court. How can we claim that we are getting justice to the poor man?

I support this Bill for the simple reason that at least for the time being there will be an end of the matter. Even if the parties do not come to an agreement, the Lok Adalat can give him an award. But I have a doubt about the enforceability of the award. My brother will have to hear me. How is to enforce an award given by a Lok Adalat unless it is clearly stated that it is having the force of a court decree? It will have to be enforced. If it has to be enforced, it must have the power of a court decree and it must be specifically stated that no appeal or revision will lie against the award of the Lok Adalat. I think there is such a provision in the statute. It is good.

Another point is whether it is permissible for legal people or advocates to appear when it is referred back? In the Lok Adalat the services of an advocate is not very much required. Without an advocate we can discuss matters in a Lok Adalat, one can have conciliation proceedings, mutual discussions and bring evidence even on a chit. All these measures are permissible there. But, when it becomes a matter of legal procedure, when the Lok Adalat is following the Civil Procedure Court or the Criminal Procedure Court, as the case may be, then the legal evidence will have to be taken. Summons will have to be issued to the witnesses. Warrants will have to be raised. All these measures will have to be taken when it is referred back to the court because there matters are decided under the provisions of the Civil Procedure or Criminal Procedure, as the case may be, and not as an arbitrator. That will definitely take some time.

I fear that there will have to be a specific provision that if the matter is taken back to the court, all these procedures need not be followed. But that is not the present procedure. If it is not taken back to the court and the issue is taken by the permanent Lok Adalat itself, if I may put it, it must be decided within a specific time. You may put six months. But, it must be decided within six months at the most. But it is no impediment for deciding earlier. So, it must be decided because time factor is the primary concern in all these matters. Unless it is promptly administered, there is no end of the matter.

Now there is another difficulty which is about duplicity.â€ (Interruptions)

MR. CHAIRMAN : Please conclude now.

SHRI VARKALA RADHAKRISHNAN : These matters are very important. If you put it, then I will just sit down.....(Interruptions)

There is another matter. The hon. Minister is a very efficient person and a lawyer. He is our Law Minister. I am also very happy to be here. Now I put it like this. There are some public utility services mentioned in the Amendment Bill like transport, air service and sanitation. Suppose there is a court, the consumer protection court. It can decide all these matters. Now, in this Amendment Bill, public utility service means any transport service for carrying passengers or goods by air, road or water. Postal, telegraphic and telephone service, supply of power and water come within the purview of the consumer court. They are deciding all these mattersâ€ (Interruptions) There are consumer protection courts throughout the country. The very same matter is referred to that court also, namely, the

consumer protection court. The matter is decided there. Suppose it is referred to *lok adalat*, then there will be duplicity. All these matters like transport and sanitation come before the tribunal appointed under the provisions of the consumer court. You ask the *lok adalats* to deal with these matters. So, there must be clear division of powers. Therefore, I have my own doubts regarding these matters. ...(*Interruptions*)

MR. CHAIRMAN: Please conclude.

SHRI VARKALA RADHAKRISHNAN : If you say, I will just sit down. Please understand that these are legal matters. If the Minister is in a hurry, let him pass itâ€¦!...(*Interruptions*)

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Since he is a senior advocate, he has to give some valuable suggestions to the hon. Minister. So, let him continue....(*Interruptions*)

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): I am not in a hurry. Please continue.....(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I am speaking from my own personal experience. If you do not allow me, then I will sit down.

MR. CHAIRMAN: I advise you to conclude.

SHRI VARKALA RADHAKRISHNAN : I am coming from a village where these courts are functioning. Everyone of us is like that. But I am connected with the functioning of family courts. Industrial tribunals are functioning in our State with a specific purpose. Now, *lok adalat* is one among them. It is more or less a conciliatory court functioning till now where no decisions are taken. Now, by the amendment, some decision will come forth and when that decision is taken into consideration, there are certain matters which we will have to take into account.

One aspect which they have already dealt with is the functioning of the consumer protection tribunals. Those are functioning in our country where all these matters are decided. Decisions are given and they are implemented also under the provisions of the Consumer Act.

Now, what is the meaning of *lok adalat*? If we are interested in giving justice to the poor man, we must have some definite idea in all these matters. That is why, at the outset, I have told you that there must be clear decentralisation of judicial powers.

Until and unless that is done, it would not be beneficial. It is because the powers are all centered in the Supreme Court as well as in the High Court. The only solace or the only solution or the only blessing that we now have is the Public Interest Litigation. Justice Krishna Iyer has evolved a new dictum in our country, which is not available everywhere, that if a person sends even a post card or a letter addressed to the Chief Justice, that would be treated as a writ petition. The person who is sending that letter need not be an aggrieved party. Any person who is interested in any public matter can do that. This is the only solution that we have now. Thanks to new dictum evolved by the Supreme Court. But that is also being misused. That is another matter. I am not going into the details of that.

If you are very particular, I will stop. It is because you are like me. I will have to obey you. Mr. Chairman, Sir, I take your advice. I will deal with all these matters when I speak on the Civil Procedure Code. On that day, I will deal with all these matters. I support the Bill. This is a very good provision. It has to be developed. The poor man must be helped to the extent possible.

SHRI ARUN JAITLEY: I am grateful to the hon. Members who have raised some very valie issues, even while supporting this Bill. Let me just clarify as to the system under which these permanent *Lok Adalats* in public utilities are proposed. Shri Bansal made a very detailed analysis of this Bill. One remedy which is available to the citizen is to go to a Civil Court. He has the remedy to go to a Constitutional Court under article 226. Therefore, those set of citizens who want to go to courts, engage lawyers, spend years, file appeals and go right up to the Supreme Court, that remedy is open to them. That remedy is in no way taken away by this law.

Then, there are certain specialised remedies which are created under the law which are available to citizens. If you feel that, as a customer, your rights are better protected under the Consumer Protection Act, then you are welcome to go under the Consumer Protection Act, file an appeal in the State Consumer Forum or in the National Consumer Forum and pursue your remedies in those forums. You can do that if you think that they are better. This particular Bill is the part of the National Legal Services Authority Act. Under the NALSA Act, there is a Chapter, Chapter VI, which deals with *Lok Adalats*. That is a pre-existing Chapter. Under that Chapter, a citizen whose case is already pending in the court, either on the direction of the court, where both the parties agree or one party moves the court, then the court makes a reference to the *Lok Adalats*. In regard to those cases which are sent by the courts to the *Lok Adalats*, *Lok Adalats* try and bring about a conciliation. If conciliation takes place, it is well and good. If

conciliation does not take place, they go back to the courts and pursue their remedies. Even today that remedy is open to a citizen. If he does not want to come under this Chapter, then he can go under the Consumer Protection Act. Or as Shri Bansal gave the example of victims of road accidents, he can go before the Motor Accidents Claims Tribunal. Those are the forums which are available to him. In addition to that, there is a forum under Chapter VI, which is a conciliatory Lok Adalat. There an effort will be made for settlement. If the effort does not succeed, it does not succeed. This Chapter is in addition to and not in substitution of the existing remedies. So, as per Shri Bansal's example, if there is a clause in a bill, where it is written that the matters will be decided by arbitration, then those arbitration procedures under 1996 Arbitration Act will continue to apply. That is an independent remedy available. This is a Chapter which will protect those categories of citizens who have to deal with Departments of the Government, Municipalities, Housing Boards, Insurance Companies, Telephone Companies where lakhs and lakhs of disputes come up every year. For that, one may not want to spend time, money, and years altogether. For a small electricity bill or for a water dispute, he does not want to go to a Civil Court and avail of those remedies.

For example, there are water disputes and telephone disputes. A litigant does not want to go to a civil court and avail of those remedies. He is entitled to it as you are. Can he take his lawyer? We have not forbidden taking lawyer. He can take his lawyer there. But he need not take him if he does not want to. He can simply move an application. Once he goes to this particular forum, he can get redressal.

The object is obvious. Therefore, in all these cases, we have kept, for the present, the upper limit of Rs.10 lakh. In some cases, we have said that the State Government or the Central Government may extend that limit. The reason why we have said is this. For example, there is a problem relating to a middle income group apartment. In a place like Delhi or Mumbai, that costs more than Rs.10 lakh. In such cases, we have to make an exemption beyond Rs.10 lakh. These kinds of disputes arise. If he chooses not to go to a court, not to go to a consumer forum or any tribunal, if he does not even want to go to a conciliatory *Lok Adalat* and if he wants this dispute to be settled once and for all, then he goes to this particular forum. It will be an independent forum. It will be available throughout the day, in all working days of the week, throughout the year. Instead of going to the normal court, he goes and settles his dispute here. If the settlement takes place, it is well and good. Otherwise, this body, after hearing both the parties, following the principles of natural justice, will decide this dispute. We have said that once it is decided, it becomes final. Thereupon, the principles of constructive *res judicata* will be applicable. That is, you have your dispute settled in these forums.

As the hon. Member, who is in the Chair now, has mentioned, this really should bring expeditious, cheaper and quicker remedy to a poor citizen. That is the object. It is an optional route. It is not a compulsory route. So, you are providing to a litigant cost free optional route which is not time-consuming, where he can go and have his disputes settled. This is in addition to the optional route of the conciliatory *Lok Adalat*. This is in addition to civil court remedies, in addition to all remedies. If he does not choose to go to this forum, he can go to any of these forums and avail of the remedies. But for those who want to avail of these remedies, it is one extra optional forum which has been made available. I have not the least doubt that there will be a large number of litigants, particularly in respect of small issues where they have to go to courts and spend years. They have to undergo embarrassment. It is only those who will choose this particular route as far as the route is concerned.

A few comments have been made about the manner of drafting and certain other suggestions were made. One issue raised by Shri Bansal was why other services have not been added to it. This is a new experiment which we are trying. We have said here that the following public utilities are automatically covered. For the other ones, we have said that the Central Government and the State Governments, after they see that this experiment functions, can keep adding further services if the need for the same arises. He also asked us whether criminal cases arising out of road accidents would be covered under this. They would obviously not be covered because those are matters of the jurisdiction of a criminal court, which is a sovereign jurisdiction, which cannot be taken away and given to a *Lok Adalat* as such.

With regard to the procedure, the *Lok Adalat* would follow their own procedure. Obviously, when they are going to decide the disputes in accordance with the normal principles of administrative and judicial principles, they will follow the rules of natural justice.

SHRI PAWAN KUMAR BANSAL : When I was talking of the utility services, what I said was this. Kindly see clause 22B, particularly the last line.

"Notwithstanding anything contained in section 19, the Central Authority or, as the case may be, every State Authority shall, by notification, establish Permanent *Lok Adalats* at such places and for exercising such jurisdiction in respect of one or more public utility services and for such areas as may be specified in the notification. "

The areas are understandable. When you are going to set up the Authorities, when you are going to set up

permanent *Lok Adalats*, you would say well that that this is only for power or electricity matters and for nothing else. In that context, I have made a suggestion. Any permanent *Lok Adalat*, which is set up under this Act, should cover all these services which you have enumerated.

SHRI ARUN JAITLEY: I am grateful to the hon. Member for having raised a very valid issue. It would be different. We have given flexibility under clause 22B. For instance, take a place like Delhi or Kolkata or Mumbai. I may inform the hon. Member that in Delhi, pursuant to a direction of High Court, one thing has been done. The Delhi Municipal Corporation is such a large body that there is one permanent *Lok Adalat* which is functioning. The Delhi Vidyut Board is such a large body that there is already one *Lok Adalat* which is functioning. In a place like Delhi, *Lok Adalat* itself is having thousands of cases. Then the Municipality may probably require a *Lok Adalat* in respect of some of these bodies. DDA may require a large body. But if you go to a small town, you may find that the number of cases are not so many.

Then, for every utility, you do not need the extra expenditure of having one separate *Lok Adalat*. For a cluster of five or six such utilities, you can have a *Lok Adalat*. Therefore, in 22(b), we have said that State authorities will notify either for a public utility separately or a number of them taken together. We have given this administrative leverage depending on the quantum of work. That is the reason why we put that.

I am very grateful to you for having taken away some time of the Private Members' Business. This is something which every Member would support, particularly, since it is citizen and litigant-friendly.

SHRI PAWAN KUMAR BANSAL : I want clarification on two things. Firstly, what happens if the respondent refuses to comply and submit before the authorities, and second, whether the order is appealable.

SHRI ARUN JAITLEY: I may clarify both the disputes. As Shri Bansal himself had given answer to the first question, in most public utilities, it is the citizen who is at the receiving end and the public utility which is really the respondent. Therefore, party to the dispute, and any party to the dispute would ordinarily be the citizen against the public utility brings the dispute before the authority. So, the municipality of the telephone company cannot say: "We refuse to submit." The language is, any party can bring a dispute, the respondent then has to comply and that is the reason why we have not brought here disputes between the citizen and citizen. We have only brought disputes between citizen and public utilities because we do not want the respondent citizen to be compulsorily brought in, but we do not bind by law telling a public utility if a citizen avails of an expeditious forum, at least you and me should not seem to say no.

Secondly, we have said that once you choose the *Lok Adalat* route and if they give an award, then the award is final and binding. The only remedy which is seriously considered is, should we cluster the courts again and say after losing here start going to courts? So, instead of cutting the litigation, we are in fact doubling it. Probably the only remedy which would be available would be a constitutional remedy under Rule 226.

With these words, I commend to the House that the Bill be adopted by the House.

MR. CHAIRMAN : The question is:

"That the Bill further to amend the Legal Services Authorities Act, 1987, be taken into consideration."

The motion was adopted.

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

The question is:

"That clauses 2 to 6 stand part of the Bill."

The motion was adopted.

Clauses 2 to 6 were added to the Bill.

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

SHRI ARUN JAITLEY: Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.
