

**Fourteenth Loksabha**

**Session : 5**

**Date : 29-08-2005**

**Participants :** [Jaiswal Shri Shriprakash](#), [Gangwar Shri Santosh Kumar](#), [Rao Shri Kavuru Samba Siva](#), [Radhakrishnan Shri Varkala](#), [Jaiswal Shri Shriprakash](#)

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Title : Motion for consideration of Immigration (Carriers' liability) Amendment Bill, 2005, as passed by Rajya Sabha. – Bill passed.

MR. DEPUTY-SPEAKER: Now, the House will take up item no. 16.

Hon. Minister please.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI SHRIPRAKASH JAISWAL):

Sir, I beg to move:

“That the Bill to amend the Immigration (Carriers' Liability) Act, 2000, as passed by Rajya Sabha, be taken into consideration.”

MR. DEPUTY-SPEAKER: Motion moved:

“That the Bill to amend the Immigration (Carriers' Liability) Act, 2000, as passed by Rajya Sabha, be taken into consideration.”

श्री संतो गंगवार उपाध्यक्ष महोदय, यह बात सही है कि राज्य सभा में यह बिल बिना बहस के पास हुआ था लेकिन जो उसके उद्देश्य और कारण थे, मैं आपको बताना चाहता हूँ कि हमने सन् 2000 में एक कानून बनाया था। उस कानून के तहत यह था कि अनधिकृत रूप से जो लोग देश में आते हैं, उनके लिए कुछ सजा का प्रावधान किया गया था और सजा में एक लाख रुपये के जुर्माने की व्यवस्था की गई थी। बाद में सरकार का कहना है कि अन्तर्राष्ट्रीय नियमों के तहत हमें इसमें संशोधन करना पड़ रहा है और संशोधन के आधार पर इसमें छूट दी जा सकती है, सारी माफी दी जा सकती है। इसमें यह भी प्रावधान किया गया है कि जो भी फैसला लिया जाएगा, सभा के पटल पर दोनों सदनों में इसे रखा जाएगा। मैं आपके माध्यम से कहना चाहूंगा कि यह बहुत ही संवेदनशील मामला है। हमारे देश के अंदर जहां पर आतंकवादी गतिविधियां कम नहीं हो रही हैं, अनधिकृत पासपोर्ट से लोग आ रहे हैं और तब एनआरआईज को हमने देश के अंदर बिना वीज़ा के आने की छूट दे दी है\*[\[R58\]](#)

कभी-कभी ऐसा भी देखने में आया है कि हमने बिना पासपोर्ट के भी देश के बाहर लोग भेजे हैं। इसलिए मैं सरकार से केवल यह कहना चाहता हूँ कि छूट तो उन लोगों को मिल रही है, परन्तु इस बात की चिन्ता की जाए कि इसका दुरुपयोग अपराधी-तत्व इस प्रकार न कर पाएं जो हमारे

देश के हित में न हो। अन्तर्राष्ट्रीय बातों को ध्यान में रखते हुए, हम लोग इस विधेयक का समर्थन करते हैं, पर सरकार की चौकसी और जिम्मेदारी इस बिल के माध्यम से और ज्यादा बढ़ गयी है कि वह किस ढंग से इसे आगे क्रियान्वित करेगी।

MR. DEPUTY-SPEAKER: Now, Shri K.S. Rao. Please be brief. आज हमारे पास बहुत ज्यादा काम है, संक्षेप में अपनी बात कहिए अन्यथा रात के 12 बज जाएंगे।

SHRI K.S. RAO Sir, as the hon. Member from Opposition, Shri Gangwar, himself has finished it in 3-4 minutes, naturally I will not take much time.

Sir, in fact, the amendment is an obligation, particularly keeping in view the international obligation that we have accepted. The days have changed and the air travel has increased so much unimaginably due to globalisation and privatisation. Earlier, it was not the case. A lot of us, particularly from the middle class and all that, never used to think that we would travel to foreign countries, and more by aircraft or even by ship. Now, with the increased number of people, travelling outside the country is more. At the same time, with openness and globalisation, we are entering into agreements globally with several countries, which are to be kept up. ...  
(Interruptions)

MR. DEPUTY-SPEAKER: Please do not disturb. Listen to the hon. Member

SHRI K.S. RAO : But the original Act brought in 2000 did not have that provision of exempting all those people, which are agreed by the international obligations.

Sir, I do agree that here in this case, the reputation of the nation is involved. Many of the people outside the country, particularly the developed nations, are of the opinion that our immigration laws are very stiff; they are being detained for hours together at the airport Immigration counters. That is why, this Act has to come. But to keep up those obligations, where we have accepted some five categories of people who are exempted from that, we cannot detain or delay in permitting them to come in. One of them is with regard to the passenger who has arrived on a flight or a ship following departure, who is diverted back to India. That is a genuine case. He cannot be denied and cannot be delayed in coming out of the Immigration counter at the airport. Similarly, where a foreigner has been exempted from the requirement of passport or visa by the Central Government, he must also be permitted. The third one is with regard to passengers who are stowed away back once again. They are to be sympathised and then, taken in. The fourth one is that where a group of foreign tourists are permitted as a group permit, they cannot be insisted on individual visa or permit.

Now, finally, it is about the foreigners holding diplomatic or official passport who are exempted. That is by MoU between country to country. So, if there were to be delay or penalty levied on the carrier on these

counts, they will not be able to keep up the international obligations. So, there is the immediate necessity to amend this Act to enable the authorities not to levy the penalty on the carrier, as this power was not there in the original Act.

As my friend was telling, the problem of terrorism is always there. But that does not mean that we must get a bad name from the international sector where we have agreed to do so. One of the reasons why all these things are happening is poverty, disparities and unemployment. Ultimately, if we were to rationalise these things, then eliminate poverty, reduce the disparities and increase the employment potential. There will not be an occasion where somebody will try to cheat or come without a passport. So, ultimately, I request the hon. the Minister and the Government to see that these things are corrected and, at the same time, internationally, the country's reputation is upheld.

I support this amendment, particularly keeping in view our reputation the world over.

SHRI VARKALA RADHAKRISHNAN Sir, while supporting this Bill, I have to draw the attention of the hon. Minister to some vital issues regarding the immigration law in our country.

The immigration procedure is so elusive and is with so much of loopholes that many people are cheated. Cheating is the order of the day. In matters of immigration, whenever there is a sponsor, that sponsor will get the golden opportunity of cheating Indians because our immigration law is lacking in certain respects. So, we see that a number of persons charged with criminal offences under Section 420 of the Indian Penal Code are being let off because the immigration law is lacking in certain respects. So, it is overdue or long overdue that the Government should have come forward to close all the loopholes in the present law.

There are many loopholes. I do not want to go into the details because we cannot praise the culprits. The liability can never be fixed upon a person because of the indefiniteness or the weaknesses in our immigration law. A man from outside can come easily to India and ask for a visa. In the foreign land, our citizens are cheated. Nothing can be done because of the weakness in our immigration law.

The people of Kerala are going to some Gulf countries seeking employment. They are being cheated every day. The persons who cheat could never be arrested and no criminal proceedings could be launched against them because of the weakness in our immigration law. So, amendment is the urgent necessity of the time. I would, once again, request the Government that it should think over this matter and come forward with a suitable amendment. This is not an amendment at all. This is only to empower the authorities to issue some

orders and regulations. That is all. There is nothing more to it. It is true that empowering the authorities to issue notification and order is necessary because there are people of India who were born here but due to reasons they have got foreign citizenship. They are being detained. They are not allowed to proceed. Such persons can be saved by the use of this amendment. By issuing an order under the provisions of the amended Section, they can be saved. That is all right. But the question is this. How can we prevent cheating? How can we prevent impersonation? How can we prevent harassment of Indian citizens abroad? Cheating, impersonation and harassment could be done for which there is no effective mechanism or liability of fixing a person under the provisions of the law. The Government of Kerala as well as many travel organisations have demanded that the law should be amended. So, I would request the hon. Minister to take the initiative of protecting Indians from being cheated. Visa is the most important thing. That is being misused because of the deficiency in our law.

This is, after all, a small amendment but the major amendment will have to be made to the immigration law. I think that the Government will not be lagging behind in bringing forward such an amendment.

With these words, I support the Bill.

MR. DEPUTY-SPEAKER: Shri Suresh Prabhu – not present.

Now, the hon. Minister has to reply.

श्री श्रीप्रकाश जायसवाल : मैं समझता हूँ कि मेरे रिप्लाय से माननीय सदस्य पूरी तरह से संतुष्ट होंगे।

Sir, the Immigration (Carriers' Liability) Act, 2000 was notified by the Ministry of Law on 11<sup>th</sup> December, 2000 after the approval of both the Houses and after getting President's assent.

This Act places the Carriers (Airlines etc) liable in respect of foreigners brought by them in contravention of the Passport (Entry into India) Act, 1920 and the rules made thereunder. The necessity of the new legislation was felt because a large number of passengers at the major International Airports were found to be coming without valid travel documents creating problems for the immigration authorities[R59]. It was observed that the Carriers (Airlines etc.) did not exercise proper checks of the travel documents before allowing the passengers to board the plane in places outside India. It was, therefore, considered necessary to cast statutory responsibility on the carriers bringing passengers not in possession of valid travel documents by imposing financial liability on them to the sum of Rs. One lakh per passenger brought by them without valid travel documents.

Sir, under Section 8 of this Act, Home Ministry was required to draft Rules to set the implementation modalities for execution of the provisions of the Act. While drafting the Rules, a provision was made for exemption to the carriers for bringing following category of passengers entering into India without valid travel documents:

1. where the passengers had arrived on a flight or ship which following departure, had been diverted to India for reasons beyond the control of the carriers;
2. where the foreigner has been exempted from the requirement of the passport or visa by the Central Government;
3. where the passengers are stow-aways and the carrier is ready to take such passengers back;
4. foreign tourist groups consisting of four or more persons sponsored by recognised Indian travel agencies arriving without visa, who are authorised to travel on collective visa (Landing Permit) issued to the whole group; and
5. foreigners holding diplomatic or Official passports who are exempted from the requirement of visa.

The rationale behind proposing such provisions in the Rules was to conform to the Protocols set by the International Civil Aviation Organisation (ICAO). Besides, as per reciprocal arrangements between the Government of India and foreign countries, foreigners holding diplomatic or official passports are exempt from the requirement of visa.

The Ministry of Law, when consulted, felt that no such Rule providing exemptions can be provided in the absence of any enabling provision in the Act itself to make such exemptions. Accordingly, the Ministry of Home Affairs undertook a fresh exercise in consultation with the Ministry of Law and prepared Immigration (Carriers' Liability) Amendment Bill, 2005 which is primarily intended to empower the Central Government to exempt any carriers or class of carriers from the operation of all or any of the provision of the said Act. Any orders made under this proviso will be placed on the Table of both the Houses of Parliament.

I would, therefore, request this august House to pass this Bill as passed by Rajya Sabha on 12.08.2005.

MR. DEPUTY-SPEAKER: Now, the question is:

“That the Bill to amend the Immigration (Carrier's Liability) Act, 2000, as passed by Rajya Sabha, be taken into consideration.”

*The motion was adopted.*

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

The question is:

“That clause 2 stand part of the Bill.”

*The motion was adopted.*

*Clause 2 was added to the Bill.*

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

MR. DEPUTY-SPEAKER: The Minister may now move that the Bill be passed.

SHRI SHRIPRAKASH JAISWAL: I beg to move:

“That the Bill be passed. ”

MR. DEPUTY-SPEAKER: The question is:

“That the Bill be passed.”

*The motion was adopted.* [\[bts60\]](#)

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**15.50 hrs.**